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800 North Capitol Street, NW.
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(3 blocks north of Union Station Metro)

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–008–1]

Change in Disease Status of Germany, Italy, and Spain Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Germany, Italy, and Spain to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in native-born animals in those regions. Germany, Italy, and Spain are currently listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. Therefore, the effect of this action is a continued restriction on the importation of ruminants that have been in Germany, Italy, or Spain and meat, meat products, and certain other products of ruminants that have been in Germany, Italy, or Spain. This action is necessary in order to update the disease status of Germany, Italy, and Spain regarding bovine spongiform encephalopathy.

DATES: This interim rule was effective April 30, 2001. We invite you to comment on this docket. We will consider all comments that we receive by July 3, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–008–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–008–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, National Center for Import and Export, Products Program, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231; (301) 734–3277.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of bovine animals and other ruminants and is not known to exist in the United States.

It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants from regions in which BSE exists, or in which there is an undue risk of introducing BSE into the United States, are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists or in which there is an undue risk of introducing BSE into the United States. In § 94.18, paragraph (a)(1) lists the regions in which BSE exists. Paragraph (a)(2) lists the regions that present an undue risk of introducing BSE into the United States because their import requirements are less restrictive than those that would be acceptable for import into the United States and/or because the regions have inadequate surveillance. In § 94.18, paragraph (b) prohibits the importation of fresh, frozen, and chilled meat, meat products, and most other edible products of ruminants that have been in any region listed in paragraphs (a)(1) or (a)(2). Paragraph (c) restricts the importation of gelatin derived from ruminants that have been in any of these regions. Section 95.4 prohibits or restricts the importation of certain byproducts from ruminants that have been in any of those regions, and § 96.2 prohibits the importation of casings, except stomach casings, from ruminants that have been in any of these regions. Additionally, the regulations in 9 CFR part 93 pertaining to the importation of live animals provide that APHIS may deny the importation of ruminants from regions where a communicable disease such as BSE exists and from regions that present risks of introducing communicable diseases into the United States (see § 93.404(a)(3)).

Currently, Germany, Italy, and Spain are among the regions listed in § 94.18(a)(2), which are regions that present an undue risk of introducing BSE into the United States. However, on November 26, 2000, a case of BSE was confirmed in a native-born animal in Germany; on January 12, 2001, a case of BSE was confirmed in a native-born animal in Italy; and on November 22, 2000, a case of BSE was confirmed in a native-born animal in Spain. Therefore, in order to update the disease status of these three regions regarding BSE, we are amending the regulations by removing Germany, Italy, and Spain from the list in § 94.18(a)(2) of regions that present an undue risk of

introducing BSE into the United States and adding Germany, Italy, and Spain to the list in § 94.18(a)(1) of regions where BSE is known to exist. The effect of this action is a continued restriction on the importation of ruminants that have been in Germany, Italy, or Spain and on the importation of meat, meat products, and certain other products and byproducts of ruminants that have been in Germany, Italy, and Spain.

Emergency Action

This rulemaking is necessary on an emergency basis to update the disease status of Germany, Italy, and Spain regarding BSE. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register** that will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required under Executive Order 12866.

We are amending the regulations by adding Germany, Italy, and Spain to the list of regions where BSE exists because the disease has been detected in native-born animals in those regions. Germany, Italy, and Spain are currently listed among the regions that present an undue risk of introducing BSE into the United States. Regardless of which of the two lists a region is on, the same restrictions apply to the importation of ruminants and meat, meat products, and most other products and byproducts of ruminants that have been in the region. Therefore, this action, which is necessary in order to update the disease status of Germany, Italy, and Spain regarding BSE, will not result in any change in the restrictions that apply to the importation of ruminants and meat, meat products, and certain other products and byproducts of ruminants that have been in Germany, Italy, or Spain.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.18 [Amended]

2. Section 94.18 is amended as follows:

a. In paragraph (a)(1), by adding, in alphabetical order, the words ''Germany,'', ''Italy,'', and ''Spain,''.

b. In paragraph (a)(2), by removing the words ''Germany,'', ''Italy,'', and ''Spain,''.

Done in Washington, DC, this 30th day of April 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–11247 Filed 5–3–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM190, Special Conditions No. 25–178–SC]

Special Conditions: Bombardier Inc. Model CL–600–1A11 Airplane; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Bombardier Inc. Model CL–600–1A11 airplanes modified by Duncan Aviation, Inc. These modified airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Attitude Heading Reference Systems (AHRS) as well as a new Electronic Flight Information System (EFIS) that displays critical flight parameters to the flightcrew. The applicable airworthiness standards do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 25, 2001.

Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–114), Docket No. NM190, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM190. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2145; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket or special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM190.'' The postcard will be date stamped and returned to the commenter.

Background

On November 28, 2000, Duncan Aviation Inc., P.O. Box 81887, Lincoln, NE 68501, applied for a supplemental type certificate (STC) to modify Bombardier Inc. Model CL–600–1A11 airplane listed on Type Certificate A21EA. The Model CL–600–1A11 is a twin engine transport airplane. It has an executive interior and is capable of carrying two flight crewmembers and up to nineteen passengers. This model is powered by two aft mounted AVCO Lycoming ALF–502L or ALF–502L–2 engines. The modification incorporates the installation of dual Rockwell Collins Attitude Heading Reference Systems (AHRS) as well as a new Electronic Flight Information System (EFIS) that displays critical flight parameters to the flightcrew. These systems can be susceptible to disruption to command and/or response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Duncan Aviation must show that the Bombardier Inc. Model CL–600–1A11 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A21EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the modified Bombardier Inc. Model CL–600–1A11 airplane includes 14 CFR part 25, dated February 1, 1965, including Amendments 25–1 through 25–37, as listed in the Type Certificate Data Sheet (TCDS) A21EA.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Bombardier Inc. Model CL–600–1A11 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model CL–600–1A11 airplane must comply with the part 25 fuel vent and exhaust emission requirements of 14 CFR part 34 and the part 25 noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Duncan Aviation, Inc. apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Bombardier Inc. Model CL–600–1A11 airplane will incorporate the following novel or unusual design features: Dual Attitude and Heading Reference Systems (AHRS) as well as a new Electronic Flight Information System (EFIS) that displays critical flight parameters to the flightcrew. These systems can be susceptible to disruption to command and/or response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionic/electronic and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Bombardier Inc. Model CL–600–1A11 as modified by Duncan Aviation Inc. These special conditions require that new avionic/electronic and electrical systems, such as the AHRS and EFIS that perform critical functions, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1, or paragraph 2, below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 kHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Bombardier Inc. Model CL–600–1A11 airplane modified by Duncan Aviation, Inc. Should Duncan apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Bombardier Inc. Model CL–600–1A11 airplane modified by Duncan Aviation, Inc. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Inc. Model CL–600–1A11 airplanes modified by Duncan.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions:* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on April 25, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11254 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM191, Special Conditions No. 25–179–SC]

Special Conditions: Lockheed-Georgia Model 1329–25; and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW (JetStar 731); High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, for the modifications installed by Duncan Aviation Inc. These modified airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The

modification incorporates the installation of dual Attitude Heading Reference Systems (ARHS) that provide input to both pilot and copilot flight instruments displaying critical flight parameters (attitude) to the flightcrew. The applicable airworthiness standards do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 17, 2001. Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–114), Docket No. NM191, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM191. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2145; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the Docket or Special Conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM191.'' The postcard will be date stamped and returned to the commenter.

Background

On February 21, 2001, Duncan Aviation, Inc., P.O. Box 81887, Lincoln, Nebraska, applied for a supplemental type certificate (STC) to modify the Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, listed on Type Certificate 2A15. These airplanes are four engine transport category airplanes of the executive type, capable of carrying two flight crewmembers and ten passengers. All models are powered by four aft mount AiResearch TFD–731 engines. In the Model 1329–23A, –23D, and –23E airplanes modified by STC SA232SW, the Pratt & Whitney turbojet engines have been replaced with the AiResearch TFE–731 engines. The modification incorporates the installation of dual Rockwell Collins Attitude Heading Reference Systems (ARHS) that provide input to both pilot and copilot flight instruments displaying critical flight parameters (attitude and heading) to the flightcrew. The AHRS can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Duncan Aviation, Inc., must show that the Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. 2A15, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the modified Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, includes CAR 4b, dated December 31, 1953, as amended by Amendments 4b–1 through 4b–9 as listed in the Type Certificate Data Sheet (TCDS) 2A15.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR 4b, as amended) do not contain adequate or appropriate safety standards for the Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, these Lockheed-Georgia Model 1329–25; and Models 1329–23A, –23D, and –23E airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Duncan apply at a later date for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

As noted earlier, the modified Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, will incorporate dual Attitude and Heading Reference Systems (AHRS) that provide input to both pilot and copilot flight instruments displaying critical flight parameters (attitude and heading) to the flightcrew. The AHRS can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionic/electronic and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by

reference, special conditions are needed for the Lockheed-Georgia Model 1329–25; and Models 1329–23A, –23D and –23E. These special conditions require that new avionic/electronic and electrical systems, such as the AHRS, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical avionic/electronic and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1, or paragraph 2, below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	20
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and —23E airplanes modified by STC SA2326SW, with the modifications installed by Duncan Aviation. Should Duncan Aviation apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Lockheed-Georgia Model 1329–25, and Models 1329–23A, -23D and -23E airplanes modified by STC SA2326SW, that are further modified by Duncan Aviation. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Lockheed-Georgia Model 1329–25, and Models 1329–23A, –23D and –23E airplanes modified by STC SA2326SW, that are further modified by Duncan Aviation, Inc.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems

to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on April 17, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11253 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–40–AD; Amendment 39–12216; AD 94–14–20 R1]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A helicopters. That AD currently requires a one-time inspection of the tail rotor blade (blade) spar elliptical centering plug (centering plug) for disbonding and the addition of a retaining pad on the pitch change shaft between the output tail rotor gearbox flange and the inboard tail rotor spar. This amendment contains the same requirements as the existing AD but clarifies that the 500-hour time-in-service (TIS) repetitive inspections, which could cause inadvertent damage, are not required. This AD also incorporates by reference a revised alert service bulletin (ASB) that does not include the 500-hour TIS repetitive inspections. This amendment is prompted by operator confusion about whether the current AD continues to require the 500-hour TIS repetitive inspections. The actions specified by this AD are intended to verify that the FAA has determined that the 500-hour TIS repetitive inspections are not required to prevent the centering plug from disbonding and moving out of position, loss of tail rotor control, and subsequent loss of control of the helicopter.

DATES: Effective June 8, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. This 1 information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Noll, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7160, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 94–14–20, Amendment 39–8969 (59 FR 41238, August 11, 1994), which applies to Sikorsky Model S–76A helicopters, was published in the **Federal Register** on January 30, 2001 (66 FR 8184). The action proposed to require a one-time inspection of the blade centering plug for disbonding and the addition of a retaining pad on the pitch change shaft between the output tail rotor gearbox flange and the inboard tail rotor spar. The action also clarified that 500-hour TIS repetitive inspections, which could cause inadvertent damage, are not required and proposed to incorporate by reference a revised ASB that does not include the 500-hour TIS repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for some editorial changes that are made in paragraphs (a) and (e). These changes were made to better identify the service information that is incorporated by reference. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that this AD will affect 150 helicopters of U.S. registry. This revised AD will not impose any additional burden or costs.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–8969 (59 FR 41238, August 11, 1994), and by adding a new airworthiness directive (AD), Amendment 39–12216, to read as follows:

94–14–20 R1 Sikorsky Aircraft Corporation: Amendment 39–12216. Docket No. 2000–SW–40–AD. Revises AD 94–14–20, Amendment 39–8969, Docket No. 93–SW–13–AD.

Applicability: Model S–76A helicopters, with tail rotor blade (blade) assembly, part number (P/N) 76101–05001 (all dash numbers) or 76101–05101 (all dash numbers), installed with more than 130

hours time-in-service (TIS), certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 25 hours TIS, unless accomplished previously.

To prevent the blade spar elliptical centering plug (centering plug) from disbonding and moving out of position, loss of tail rotor control, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the centering plug for disbonding of the polyurethane filler that fills the space between the aluminum centering plug and the graphite spar in accordance with the Accomplishment Instructions, paragraph 3.A.(1) and (2), of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–35B (153B), Revision B, dated October 2, 1997 (ASB).

Note 2: The 500-hours TIS repetitive inspections contained in the Accomplishment Instructions, paragraph 3.D., of Sikorsky Aircraft Corporation Alert Service Bulletin 76–65–35A, Revision A, dated February 29, 1984, are not required by this AD.

(1) If the inspection of the centering plug reveals disbonding of ½-inch or less in length, install a retaining pad, P/N 76102–05004–111, in accordance with the Accomplishment Instructions, paragraph 3.C., of the ASB.

(2) For disbonds greater than ½-inch in length, repair the blade assembly in accordance with the Accomplishment Instructions, paragraph 3.B.(1), of the ASB except you are not required to contact Sikorsky Worldwide Customer Service. If blades are found with polyurethane filler excessively cracked or deteriorated to extent of breaking away from the spar or aluminum plug by 0.005-inch or greater, replace the blade with an airworthy blade.

(3) For spars with complete spar to centering plug disbond in which the polyurethane filler is intact and remains fully bonded to the centering plug, repair the blade assembly in accordance with the Accomplishment Instructions, paragraph 3.B.(2), of the ASB.

(4) For spars with complete polyurethane filler to centering plug disbond in which the polyurethane filler is intact and remains fully bonded to the spar, repair the blade assembly in accordance with the Accomplishment Instructions, paragraph 3.B.(3) of the ASB.

(b) Install a retaining pad, P/N 76102–05004–111, in accordance with the Accomplishment Instructions, paragraph 3.C., of the ASB.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished if a retaining pad has been installed.

(e) The inspections, modifications, and repair shall be done in accordance with the Accomplishment Instructions, paragraphs 3.A.(1), 3.A.(2), 3.B.(1), 3.B.(2), 3.B.(3), and 3.C., of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–35B (153B), Revision B, dated October 2, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 8, 2001.

Issued in Fort Worth, Texas, on April 20, 2001.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–10730 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–352–AD; Amendment 39–12214; AD 2001–09–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection to verify the proper configuration of the drive assemblies for the low-pressure and, for certain airplanes, the cross-feed fuel valves; and corrective action, if necessary. This action is necessary to prevent failure of the low-pressure and/or cross-feed fuel valves, which could result in the inability to shut off the fuel supply to the engine and exacerbate an engine fire, or the inability to cross-feed fuel when required. This action is intended to address the identified unsafe condition.

DATES: Effective May 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 21, 2001.

Comments for inclusion in the Rules Docket must be received on or before June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2000–NM–352–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–352–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA

that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that an operator of a Model A340 series airplane experienced an engine shutdown less than a minute after engine startup. Subsequent inspection of the low-pressure fuel valve drive of the engine revealed that a thrust washer was missing from the drive assembly. The reason for the missing washer is unknown. The absence of the washer allowed excessive movement of the spindle in the drive assembly, which caused the spindle to disconnect from the actuator. Because the actuator was not connected to the spindle of the drive assembly, the fuel valve could not be operated. Failure of the low-pressure fuel valve, if not corrected, could result in the inability to shut off the fuel supply to the engine and exacerbate an engine fire.

The subject low-pressure fuel valves are installed on certain Model A330 and A340 series airplanes. Therefore, those Model A330 series airplanes are also subject to the unsafe condition identified in this AD.

Failure of the cross-feed valves could result in the inability to cross-feed fuel when required only on Model A330 series airplanes flying under extended range twin-engine operations (ETOPS).

Relevant Service Information

Airbus has issued Service Bulletins A330–28A3069 (for Model A330 series airplanes) and A340–28A4087 (for Model A340 series airplanes), both dated July 27, 2000. The service bulletins describe procedures for a one-time inspection to verify the proper configuration of the drive assemblies for the low-pressure and cross-feed fuel valves. If the washer is missing, the service bulletins provide procedures for installing a new thrust washer. If excessive movement of the drive spindle is detected, the service bulletins provide procedures for inspecting the drive assembly to detect damage and wear and replacing unserviceable parts with serviceable parts. These actions are intended to adequately address the unsafe condition. The DGAC classified the service bulletins as mandatory and issued French airworthiness directives 2000–406–125(B) and 2000–405–152(B), both dated September 20, 2000, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent failure of the low-pressure and/or cross-feed fuel valves, which could result in the inability to shut off the fuel supply to the engine and exacerbate an engine fire, or the inability to cross-feed fuel when required. This AD requires the actions specified in the service bulletins, described previously.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 16 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $960 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2000–NM–352–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic

impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–09–09 Airbus Industrie: Amendment 39–12214. Docket 2000–NM–352–AD.

Applicability: The following airplanes, certificated in any category, listed in the following table:

TABLE 1—APPLICABILITY

Model/series	Having serial numbers—	Equipped with—
A330–202, –223, –243, –301, –321, –322, –323, –341, –342, –343.	0012 through 0314 inclusive, 0316 through 0319 inclusive, 0321, 0322, 0325 through 0328 inclusive.	Low-pressure fuel valves having part number (P/N) HTE900212 or HTE900160, and having a cross-feed valve having P/N HTE900162.
A340–211, –212, –213, –311, –312, –313	0002 through 0327 inclusive	Low-pressure fuel valves having P/N HTE900212 or HTE900160.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the low-pressure and/or cross-feed fuel valves, which could result in the inability to shut off the fuel supply to the engine and exacerbate an engine fire, or the inability to cross-feed fuel when required, accomplish the following:

Inspection

(a) Within 1,450 flight hours after the effective date of this AD, perform a one-time detailed visual inspection of the drive assemblies for the low-pressure and cross-feed fuel valves to detect discrepancies (incorrect configuration including a missing thrust washer and excessive movement of the drive spindle), in accordance with Airbus Service Bulletin A330–28A3069 (for Model A330 series airplanes) or A340–28A4087 (for Model A340 series airplanes), both dated July 27, 2000; as applicable. If any discrepancy is found: Prior to further flight, perform applicable corrective actions (including inserting a new washer, inspecting the drive assembly to detect damage and wear, repairing cracking, and replacing unserviceable parts with serviceable parts) in accordance with the applicable service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Spares

(b) As of the effective date of this AD, no person may install on any airplane a low-pressure fuel valve having P/N HTE900212 or HTE900160, unless that valve has been inspected and applicable corrective actions have been performed in accordance with the requirements of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A330–28A3069, dated July 27, 2000; and Airbus Service Bulletin A340–28A4087, dated July 27, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 2000–406–125(B) and 2000–405–152(B), both dated September 20, 2000.

Effective Date

(f) This amendment becomes effective on May 21, 2001.

Issued in Renton, Washington, on April 24, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–10726 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30246; Amdt. No. 2049]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (air).

Issued in Washington, DC on April 27, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC number	Subject
04/11/01	TX	ANAHUAC	CHAMBERS COUNTY	1/3514	RNAV (GPS) RWY 12, ORIG
04/11/01	TX	ANAHUAC	CHAMBERS COUNTY	1/3515	NDB RWY 12, ORIG
04/11/01	TX	HOUSTON	GEORGE BUSH INTERCONTINENTAL AIRPORT/HOUSTON.	1/3528	NDB RWY 26, AMDT 1D
04/12/01	OH	YOUNGSTOWN	YOUNGSTOWN-WARREN REGIONAL.	1/3557	ILS RWY 32, AMDT 25A
04/12/01	ID	CALDWELL	CALDWELL INDUSTRIAL	1/3563	GPS RWY 12, ORIG
04/12/01	ID	CALDWELL	CALDWELL INDUSTRIAL	1/3564	GPS RWY 30, ORIG
04/12/01	TX	MC ALLEN	MC ALLEN MILLER INTL	1/3573	NDB RWY 13, AMDT 6A
04/12/01	TX	MC ALLEN	MC ALLEN MILLER INTL	1/3574	ILS RWY 13, AMDT 8A
04/12/01	OR	PORTLAND	PORTLAND-HILLSBORO	1/3576	ILS RWY 12, AMDT 5B
04/12/01	SD	WATERTOWN	WATERTOWN MUNI	1/3577	ILS RWY 35, AMDT 10
04/13/01	IL	LAWRENCEVILLE	LAWRENCEVILLE-VINCENNES INTL	1/3589	RNAV (GPS) RWY 27, ORIG-A
04/13/01	IL	LAWRENCEVILLE	LAWRENCEVILLE-VINCENNES INTL	1/3590	VOR RWY 27; AMDT 7
04/13/01	OK	ALTUS	ALTUS MUNI	1/3595	VOR/DME RNAV RWY 17, AMDT 2A
04/13/01	OK	ALTUS	ALTUS MUNI	1/3596	GPS RWY 17, AMDT 1A
04/13/01	OK	ALTUS	ALTUS MUNI	1/3597	VOR-A, AMDT 4A
04/13/01	OK	ALTUS	ALTUS MUNI	1/3598	VOR OR GPS-B, ORIG-A
04/13/01	MI	SAULT STE MARIE	CHIPPEWA COUNTY INTL	1/3599	NDB OR GPS RWY 16, AMDT 5B
04/13/01	MI	SAULT STE MARIE	CHIPPEWA COUNTY INTL	1/3600	VOR OR TACAN OR GPS-A, AMDT 5B
04/13/01	TN	CLARKSVILLE	OUTLAW FIELD	1/3604	VOR RWY 35, AMDT 15B NDB OR GPS RWY 35,
04/13/01	TN	CLARKSVILLE	OUTLAW FIELD	1/3605	AMDT 5C
04/13/01	TN	CLARKSVILLE	OUTLAW FIELD	1/3601	LOC RWY 35, AMDT 5C
04/17/01	PA	SCRANTON	WILKES-BARRES/SCRANTON INTL	1/1683	ILS RWY 22 AMDT 4
04/17/01	OH	OTTAWA	PUTNAM COUNTY	1/3650	NDB RWY 27, AMDT 1
04/17/01	AK	ANIAK	ANIAK	1/3658	ILS/DME RWY 10, AMDT 7A
04/18/01	NE	MC COOK	MC COOK MUNI	1/3670	VOR RWY 12, AMDT 11B
04/18/01	NE	MC COOK	MC COOK MUNI	1/3671	VOR OR GPS RWY 30, AMDT 10B
04/18/01	NE	MC COOK	MC COOK MUNI	1/3672	VOR RWY 21, AMDT 4C
04/18/01	NE	MC COOK	MC COOK MUNI	1/3673	GPS RWY 12, ORIG-A
04/18/01	IA	GRINNELL	GRINNELL REGIONAL	1/3676	GPS RWY 13, ORIG
04/18/01	NY	WATERTOWN	WATERTOWN MUNI	1/3689	ILS RWY 7 AMDT 6A
04/18/01	TN	UNION CITY	EVERETT-STEWART	1/3707	VOR/DME OR GPS-A, AMDT 7
04/19/01	TX	CLEVELAND	CLEVELAND MUNI	1/3747	VOR-A, AMDT 4
04/19/01	NM	ALBUQUERQUE	ALBUQUERQUE INTL SUNPORT	1/3749	VOR OR TACAN OR GPS RWY 8, AMDT 19
04/19/01	NM	ALBUQUERQUE	ALBUQUERQUE INTL SUNPORT	1/3750	ILS RWY 8, AMDT 5
04/20/01	IA	DES MOINES	DES MOINES INTL	1/3758	ILS RWY 13L, AMDT 8
04/20/01	IA	DES MOINES	DES MOINES INTL	1/3759	HI-ILS RWY 13L, AMDT 6
04/20/01	IA	DES MOINES	DES MOINES INTL	1/3760	HI-ILS RWY 31R, AMDT 6
04/20/01	IA	DES MOINES	DES MOINES INTL	1/3761	NDB OR GPS RWY 31R, AMDT 19A
04/20/01	IA	DES MOINES	DES MOINES INTL	1/3762	ILS RWY 31R, AMDT 21A
04/20/01	NY	ISLIP	LONG ISLAND MAC ARTHUR	1/3767	ILS RWY 24 AMDT 2A
04/20/01	IA	BURLINGTON	BURLINGTON REGIONAL	1/3780	ILS RWY 36, AMDT 9D
04/23/01	AK	ANIAK	ANIAK	1/3820	LOC/DME RWY 10, AMDT 3A
04/23/01	IA	HAMPTON	HAMPTON MUNI	1/3840	VOR/DME RWY 35 AMDT 1A
04/23/01	AK	JUNEAU	JUNEAU INTL	1/3845	LDA-1 RWY 8 AMDT 10A
04/24/01	IL	CHICAGO	CHICAGO-O'HARE INTL	1/3884	ILS RWY 22L AMDT 4D
04/24/01	IL	CHICAGO	CHICAGO-O'HARE INTL	1/3885	ILS RWY 22R AMDT 7
04/24/01	IL	CHICAGO	CHICAGO-O'HARE INTL	1/3886	GPS RWY 22R ORIG

[FR Doc. 01–11256 Filed 5–3–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30245; Amdt. No. 2048]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charge printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airport, Navigation (air).

Dated: Issued in Washington, DC on April 27, 2001.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

***Effective May 17, 2001*

Pittsburgh, PA, Pittsburgh International, ILS RWY 10C, Orig
Pittsburgh, PA, Pittsburgh International, ILS RWY 28C, Orig
Union City, TN, Everett-Stewart, SDF RWY 1, Amdt 5, CANCELLED
Union City, TN, Everett-Stewart, NDB OR GPS RWY 1, Amdt 6
Union City, TN, Everett-Stewart, ILS RWY 1, Orig

****Effective July 12, 2001*

Dothan, AL, Dothan Regional, RNAV (GPS) RWY 14, Orig
Dothan, AL, Dothan Regional, RNAV (GPS) RWY 18, Orig
Tuskegee, AL, Moton Field Muni, VOR–A, Amdt 4
Tuskegee, AL, Moton Field Muni, RNAV (GPS) RWY 13, Orig
Tuskegee, AL, Moton Field Muni, RNAV (GPS) RWY 31, Orig
Bethel, AK, Bethel, VOR/DME–B, Orig
Bethel, AK, Bethel, RNAV (GPS)–A, Orig
Emmonak, AK, Emmonak, RNAV (GPS) RWY 16, Orig
Emmonak, AK, Emmonak, RNAV (GPS) RWY 34, Orig
Fort Smith, AR, Fort Smith Regional, RNAV (GPS) RWY 1, Orig
Fort Smith, AR, Fort Smith Regional, RNAV (GPS) RWY 7, Orig
Fort Smith, AR, Fort Smith Regional, RNAV (GPS) RWY 25, Orig
Fort Smith, AR, Fort Smith Regional, ILS RWY 25, Amdt 21
Fort Smith, AR, Fort Smith Regional, NDB RWY 7, Amdt 8
Fort Smith, AR, Fort Smith Regional, VOR/DME OR TACAN RWY 7, Amdt 11
Fort Smith, AR, Fort Smith Regional, RADAR–1, Amdt 8
Gainesville, FL, Gainesville Regional, RNAV (GPS) RWY 6, Orig
Gainesville, FL, Gainesville Regional, RNAV (GPS) RWY 10, Orig
Gainesville, FL, Gainesville Regional, RNAV (GPS) RWY 24, Orig
Gainesville, FL, Gainesville Regional, RNAV (GPS) RWY 28, Orig
Gainesville, FL, Gainesville Regional, GPS RWY 6, Orig, CANCELLED
Gainesville, FL, Gainesville Regional, GPS RWY 10, Orig, CANCELLED
Gainesville, FL, Gainesville Regional, GPS RWY 24, Orig, CANCELLED
Gainesville, FL, Gainesville Regional, GPS RWY 28, Orig, CANCELLED
Thomson, GA, Thomson-McDuffie County, NDB RWY 10, Orig
Thomson, GA, Thomson-McDuffie County, ILS RWY 10, Orig
Colby, KS, Shaltz Field, RNAV RWY 17, Orig
Colby, KS, Shaltz Field, RNAV RWY 35, Orig
Colby, KS, Shaltz Field, NDB RWY 17, Amdt 1
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 3, Orig
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 16, Orig
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 21, Orig
Pittsburg, KS, Atkinson Muni, RNAV (GPS) RWY 34, Orig
Pittsburg, KS, Atkinson Muni, NDB–A, Orig
Pittsburg, KS, Atkinson Muni, VOR/DME RWY 3, Amdt 3
Pittsburg, KS, Atkinson Muni, NDB OR GPS RWY 16, Amdt 3A, CANCELLED
St. James, MN, St. James Muni, RNAV (GPS) RWY 15, Orig
St. James, MN, St. James Muni, RNAV (GPS) RWY 33, Orig
Columbia, MO, Columbia Regional, VOR RWY 13, Amdt 3
Columbia, MO, Columbia Regional, VOR RWY 20, Amdt 4
Columbia, MO, Columbia Regional, VOR/DME RWY 20, Amdt 3
Columbia, MO, Columbia Regional, NDB RWY 2, Amdt 9
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 2, Orig
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 13, Orig
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 20, Orig
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 31, Orig
Lebanon, MO, Floyd W. Jones Lebanon, RNAV RWY 18, Orig
Lebanon, MO, Floyd W. Jones Lebanon, RNAV RWY 36, Orig
Lebanon, MO, Floyd W. Jones Lebanon, NDB RWY 36, Amdt 6
Lebanon, MO, Floyd W. Jones Lebanon, SDF RWY 36, Amdt 5
Salem, MO, Salem Memorial, VOR–A, Orig
Salem, MO, Salem Memorial, RNAV (GPS) RWY 17 Orig
Salem, MO, Salem Memorial, RNAV (GPS) RWY 35, Orig
Washington, MO, Washington Memorial, RNAV RWY 16, Orig
Washington, MO, Washington Memorial, RNAV RWY 34, Orig
Washington, MO, Washington Memorial, VOR RWY 16, Amdt 2
Lehighton, PA, Jake Arner Memorial, NDB RWY 8, Amdt 3
Lehighton, PA, Jake Arner Memorial, NDB RWY 26, Amdt 4
Lehighton, PA, Jake Arner Memorial, RNAV (GPS) RWY 8, Orig
Lehighton, PA, Jake Arner Memorial, RNAV (GPS) RWY 26, Orig
Rapid City, SD, Rapid City Regional, VOR OR TACAN RWY 14, Orig-B
Rapid City, SD, Rapid City Regional, RNAV (GPS) RWY 14, Orig
Knoxville, TN, McGhee Tyson, RNAV (GPS) RWY 5L, Orig
Knoxville, TN, McGhee Tyson, RNAV (GPS) RWY 23R, Orig
Appleton, WI, Outagamie County Regional, RNAV (GPS) RWY 29, Orig

Note: The FAA published the following procedures in Docket No. 30243, Amdt. No. 2046 to Part 97 of the Federal Aviation Regulation (VOL 66, No. 78, Page 20392, dated Monday, April 23, 2001) under section 97.33 effective May 17, 2001, which are hereby amended as follows:

Change effective date to 12 July 2001 for the following procedures:

Dothan, AL, Dothan Regional, RNAV (GPS) RWY 14, Orig
Dothan, AL, Dothan Regional, RNAV (GPS) RWY 18, Orig
Emmonak, AK, Emmonak, RNAV (GPS) RWY 16, Orig
Emmonak, AK, Emmonak, RNAV (GPS) RWY 34, Orig

Note: The FAA published the following procedures in Docket No. 30243, Amdt. No. 2046 to Part 97 of the Federal Aviation Regulation (VOL 66, No. 78, Page 20392, dated Monday, April 23, 2001) under section 97.33 effective July 12, 2001, which are hereby amended as follows:

Wilmington, NC, Wilmington Intl, GPS RWY 6, Amdt 1A, Should Read: GPS RWY 6 Amdt 1A CANCELLED
Wilmington, NC, Wilmington Intl, GPS RWY 24, Amdt 1A, Should Read: GPS RWY 24 Amdt 1A CANCELLED

[FR Doc. 01–11255 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067–AD13

National Flood Insurance Program (NFIP); Letter of Map Revision and Letter of Map Revision Based on Fill Requests

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule changes procedures for issuing Letters of Map Revision (also referred to as LOMRs) and Letters of Map Revision Based on Fill (also referred to as LOMR–Fs). We use these criteria to determine whether a LOMR–F can be issued to remove unimproved land or land with structures from the Special Flood Hazard Area (SFHA) by raising ground elevations using engineered earthen fill.

EFFECTIVE DATE: June 4, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Technical Services Division, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, (facsimile) (202) 646–4596, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION:

Comments

On October 10, 2000, we (FEMA) published a proposed rule at 65 FR 60159 that would revise the procedures under which we issue LOMRs and LOMR–Fs.

We received eight letters and e-mail messages about the proposed rule. Many of these contained multiple comments and, in a number of cases, the submissions raised similar issues and concerns. One organization submitted two sets of comments.

The following submitted comments on the proposed rule:

- Four State water resource agencies;
- One State association for the building industry;
- One national association for floodplain management;
- One regional association for communities;
- One private legal firm.

Each of the following sections treats an issue raised by the public during the comment period and explains our reasons for adopting, modifying, or rejecting a given recommendation.

General Comments. One commenter supported the proposed rule as written and urged its expeditious adoption. One commenter generally supported the rule change.

Our Response: None.

Burden on Local Officials. Two commenters expressed the opinion that the requirement for local communities to assure a building site as ''reasonably safe from flooding'' would impose a burden on them, and one suggested that FEMA should make the review and provide the assurance, if appropriate.

Our Response: It is important to note that the requirement for local communities to determine ''whether proposed building sites will be reasonably safe from flooding'' is not a new requirement. It has been a part of the NFIP regulations since at least January 8, 1973 (36 FR 24762, December 22, 1971, as amended at 38 FR 1001, January 8, 1973). Currently, this requirement applies to any community that has applied for and been accepted for participation in the NFIP. Further, the community may require that the property owner's design professional provide the assurance that the structure is ''reasonably safe from flooding''. We are also providing Technical Bulletin 10–00 to assist communities and design professionals in evaluating structures. This final rule simply emphasizes the long-standing requirement outlined in paragraph 60.3(a)(3) and therefore, does not impose any new burden on local communities.

Certification of Data. One commenter felt that the determination that land or structures are ''reasonably safe from flooding'' was beyond the expertise of many registered professional engineers and certified land surveyors. They suggested that the determination be made by a qualified design professional with appropriate expertise.

Our Response: The complexity of these determinations is highly dependent on site-specific conditions that will vary within the participating community. Furthermore, the ability of local governments to make these decisions will vary from community to community as will State laws regarding professional accreditation, certification, and licensing. This variability makes it difficult to prescribe a single solution applicable in all cases. We therefore will rely upon the judgment of the participating community and expect them to meet all State or local requirements regarding the use of design professionals when making these determinations.

Communities May Lack Qualified Staff. One commenter felt that many communities may not have qualified staff or resources to determine whether land or a structure is ''reasonably safe from flooding'', and may choose not to make the determination.

Our Response: The technical bulletin is being provided to give guidance for determining when land or structures can be considered ''reasonably safe from flooding''. In lieu of using the guidance in the technical bulletin, a community may choose to require the floodplain map revision requester's qualified design professional assure the land or structures to be removed from the SFHA are ''reasonably safe from flooding''. The participating community can then rely on the qualified design professional's assurance if it so chooses. However, it is ultimately the participating community's responsibility for assuring that the areas being removed from the SFHA are ''reasonably safe from flooding.''

Conflict with Section 60.3. Three commenters noted that the proposed change to paragraph 65.5(a)(4) violates the provisions of paragraph 60.3(c)(2), in that it allows lowest floor elevations to be below the Base (100-year) Flood Elevation (BFE) and allows the structure to be removed from the SFHA, which in turn allows Federal financial assistance without the requirement of flood insurance coverage.

Our Response: It is not the intent of the rule to encourage or allow violations of existing Federal regulations. Therefore, the rule has been reworded to emphasize the minimum floodplain management requirements of § 60.3 must be met before a revision to the SFHA can be made. The rule does allow for the removal of land or a structure when violations have occurred, but only after all violations have been remedied by the community to the maximum extent possible and the land or structures have been determined by the community to be ''reasonably safe from flooding.''

Use of Design Professionals. Two commenters felt that a determination of ''reasonably safe from flooding'' should be made by a qualified design professional instead of the participating community.

Our Response: The participating community may, if it wishes, require that the party requesting removal of land or structures from the SFHA provide assurance by a qualified design professional that standard professional practices have been applied and that the criteria described in Technical Bulletin 10–00 have been, or will be met. If it so chooses, the community may rely on the design professional for assurance that the land or structures being removed from the SHFA are ''reasonably safe from flooding.'' However, it is ultimately the participating community's responsibility to assure areas being removed from the SFHA are ''reasonably safe from flooding.''

Education Needed Before Rule Change. One commenter supported the rule change but felt that education for community officials and property owners was needed first.

Our Response: The technical bulletin is being provided to guide and educate community officials, design professionals, and property owners considering development in SFHAs. The technical bulletin discourages unwise and unsafe building practices and emphasizes elevation as the preferred means of ensuring land and structures are ''reasonably safe from flooding.''

Flood-Proofed Residential Basements. One commenter felt that the rule would create a variance for floodproofed residential basements outlined in § 60.6(c) without formal FEMA recognition, which would lead to requests for floodproofed rates for the structures. Another commenter felt that the requirements outlined in § 60.6(c) should be simplified so that all communities could allow floodproofed basements.

Our Response: The purpose of the rule is not to allow planning and construction of lowest floors below the BFE in filled floodplains. Rather the purpose is to provide a means of removing from the floodplain lands that

have been filled to or above the BFE. In some situations this process may result in revising flood hazard areas where violations of NFIP minimum floodplain management regulations have occurred. However, this will only occur if the violations are remedied to the maximum extent possible and the land or structures have been determined by the community to be ''reasonably safe from flooding.'' If the community cannot do so, the LOMR–F will not be issued. If an area or structure is removed from the SFHA, the federally mandated purchase of flood insurance will not apply and the cost of flood insurance will likely go down. Flood-proofed residential structures built in communities in compliance with approved basement exception procedures are eligible for consideration under paragraph 65.5 (a)(4) of this final rule.

Infrastructure. One commenter asked the meaning of ''infrastructure'' in the proposed definition in § 65.2(c).

Our Response: The term ''infrastructure'' has been removed from the definition in the final rule.

Insurance Waiver. Two commenters suggested that, instead of allowing removal of land or structures from the SFHA designation, FEMA should simply issue a waiver of the insurance requirement.

Our Response: The requirement for flood insurance coverage for property located in an SFHA is statutory (42 U.S.C. 4012a(b)). The Flood Disaster Protection Act of 1973, as amended, requires that regulated lending institutions, Federal agency lenders, and government sponsored enterprises for housing examine the NFIP map to determine whether a property for which it is contemplating making, extending, or renewing a loan is in an SFHA. If so, they must place the requirement for flood insurance coverage on the property before completing the loan transaction. The requirement for flood insurance purchase is placed by the lending institution underwriting the loan and cannot be waived by any other party without a change in the Act.

Status of States. One commenter asked whether a State is considered a ''community'' with respect to the rule.

Our Response: A State is considered an NFIP community when it regulates its own actions on State lands and is exempt from local permitting requirements. Most States have separate statutory authority, regulations, or executive orders that apply to their own actions. In these situations the State agency responsible for overseeing floodplain development by the State would determine if an area was ''reasonably safe from flooding.'' In some instances a State and a community may both have permitting authority over development that takes place in that community. In these situations it is a matter of State law to determine whether the State or the community is the appropriate body to determine if an area is ''reasonably safe from flooding.''

Unimproved Land Removed From SFHA. Two commenters questioned how structures built after filled areas are removed from the SFHA would be affected by NFIP and community floodplain management requirements.

Our Response: Once the filled area is removed from the SFHA, it is by definition no longer subject to the minimum Federal requirements of § 60.3. However, this does not preclude participating communities or States from imposing additional restrictions should they choose to do so. Before land or structures can be removed from the SFHA, the community must assure that the areas are and will be ''reasonably safe from flooding.'' It is up to the participating community to decide how this will be accomplished. However, in order to make this assurance they will likely have to know the location or proposed location of any buildings on the site or have other requirements in place to ensure that future development is constructed so that it will not be damaged during the base flood. See the Technical Bulletin 10–00 for further guidance on this issue.

Revised Procedures

This section discusses changes in the procedures used to process LOMR–F requests. These procedures will apply to single and multi-lot LOMR–F requests, which may involve one structure or multiple structures. These procedures also apply to LOMRs and they supersede the interim procedures published September 1, 1999, at 64 FR 47813. We will process all LOMR and LOMR–F requests received after June 4, 2001, as follows:

- Paragraphs 65.5(a)(1) through 65.5(a)(7) will apply to requests to remove land and structures involving the placement of engineered earthen fill.
- Paragraphs 65.6(a)(1) through 65.6(a)(15) will apply to requests for LOMRs.
- Community officials must continue to review map revision requests involving the placement of engineered earthen fill within the SFHA on the community's FIRM. As part of the community acknowledgement of LOMR and LOMR–F requests, the community must continue to assure that the minimum floodplain management criteria outlined in § 60.3 have been met.
- FEMA will not review a request for a LOMR or LOMR–F without community assurances that the request meets the requirements of § 60.3.
- We will consider structures built in identified SFHAs that do not meet the requirements of § 60.3 violations of NFIP regulations and will take appropriate action. Further, we will suspend review of these requests and others that are potentially in violation of NFIP regulations until the issues are resolved and all identified violations have been remedied through appropriate State and Federal entities including FEMA or its designee. Once all violations have been remedied by the community to the maximum extent possible and the community assures the land or structures are ''reasonably safe from flooding,'' we will process the map revision request using the criteria outlined in § 65.5(a). Technical Bulletin 10–00 provides further guidance to community officials when determining whether land or structures are ''reasonably safe from flooding.''
- FEMA will review previously issued determinations for conformity with these revised procedures upon written request.
- New LOMR and LOMR–F requests and requests for redeterminations will be subject to the current fee schedule established in 44 CFR part 72.

National Environmental Policy Act

FEMA will not prepare an environmental analysis under NEPA since this rule would address an apparent administrative inconsistency that has no bearing on building practices or on the built or natural environment. This rule removes the current distinction between fill placed in an SFHA containing structures and fill placed in an SFHA without structures, both of which are allowable under current laws and regulations governing participation in the National Flood Insurance Program. Removing this distinction resolves an apparent inconsistency in the floodprone status of a subset of structures built on fill within the SFHA. These apparent inconsistencies resulted from differences in the administrative processes followed by communities who permit development in floodplains rather than from physical differences in the built environment. We will continue to allow earthen fill and other types of development within the SFHA when applicable, and we will continue to require residential structures built in identified flood hazard areas have their lowest floor (including basement) elevated to or above the base flood.

Regulatory Planning and Review

We have prepared and reviewed this rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule changes the criteria that we use to determine whether we can issue a LOMR or LOMR–F to remove unimproved land or land with structures from the SFHA by raising ground elevations using earthen fill. We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order. To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. This rule has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* the OMB approved the collections of information applicable to this rule: OMB Number 3067–0147, Report to Submit Technical or Scientific Data to Correct Mapping Deficiencies Unrelated to Community-Wide Elevation Determinations (Amendments & Revisions to National Flood Insurance Program Map).

Following is a summary of how each form will be used:

(a) *FEMA Form 81–87. Property Information.* This form describes the location of the property, what is being requested, and what data are required to support the request.

(b) *FEMA Form 81–87E. Credit Card Information.* This form outlines the information needed to process a request when the requester is paying processing fees by credit card.

(c) *FEMA Form 81–87A. Elevation Information.* This form indicates what the BFE for the property is, how the BFE was determined, the lowest ground elevation on the property, and/or the elevation of the lowest adjacent grade to any structures on the property. This information is required for FEMA to determine whether the property that is being requested to be removed from the SFHA is at or above the BFE.

(d) *FEMA Form 81–87C. Community Acknowledgment of Requests Involving Fill.* This form ensures that the participating community is aware of the revision request and that the requirements of § 60.3 have been met.

(e) *FEMA Form 81–87D. Summary of Elevations—Individual Lot Breakdown.* This form is used in conjunction with the Elevation Information Form for requests involving multiple lots or structures. It provides a table to allow the required submitted data to be presented in a manner for quick and efficient review.

The estimated burden on individual property owners is:

Property Information—1.63 hours
Credit Card Form—0.1 hour
Elevation Information—0.63 hour
Community Acknowledgment of
Requests Involving Fill—0.88 hour
Summary of Elevations—Individual Lot
Breakdown—0.67 hour

The number of requesters will vary from year to year, as we have no control over the number of people who will seek to have determinations made for their properties. For the purposes of this rule we estimate the following annual burdens:

Requesters—2,500
Hours per response—3.91
Total hours—9,775

Regulatory Flexibility Act, 5 U.S.C. 601

Under the Regulatory Flexibility Act agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When an agency is required by 5 U.S.C. 553 to publish a notice of rulemaking, a regulatory flexibility analysis is required for both the notice and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The Act also provides that if a regulatory flexibility analysis is not required, the agency must certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities.''

For the reasons that follow I certify that a regulatory flexibility analysis is not required for this rule because it would not have a significant economic impact on a substantial number of small entities. This rule is a clarification of existing policy and removes confusion and apparent inconsistencies in the current rule. We expect the rule to remove the current rule's adverse impact on property owners, including small entities. We expect the rule to enhance the ability of local officials to make sound floodplain management decisions more readily than under the current rule. We also expect the rule to reduce the administrative burden on property owners, including small entities. We further expect the rule will reduce certain building costs, without increasing the risks of flooding either to the owners or to the National Flood Insurance Program.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria to which agencies must adhere in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this rule under E.O.13132 and have concluded that the rule does not have federalism implications as defined by the Executive Order. As noted under Regulatory Planning and Review, this rule changes the criteria that we would use to determine whether we can issue a LOMR or LOMR–F to remove unimproved land or land with structures from the SFHA by raising ground elevations using engineered earthen fill. We know of no substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government that would result from this rule.

The OMB has reviewed this rule under the provisions of Executive Order 13132.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, amend 44 CFR part 65 as follows:

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Amend § 65.2 by adding paragraph (c) to read as follows:

§ 65.2 Definitions.

* * * * *

(c) For the purposes of this part, ''reasonably safe from flooding'' means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

3. Revise § 65.5 to read as follows:

§ 65.5 Revision to special hazard area boundaries with no change to base flood elevation determinations.

(a) *Data requirements for topographic changes.* In many areas of special flood hazard (excluding V zones and floodways) it may be feasible to elevate areas with engineered earthen fill above the base flood elevation. Scientific and technical information to support a request to gain exclusion from an area of special flood hazard of a structure or parcel of land that has been elevated by the placement of engineered earthen fill will include the following:

(1) A copy of the recorded deed indicating the legal description of the property and the official recordation information (deed book volume and page number) and bearing the seal of the appropriate recordation official (*e.g.,* County Clerk or Recorder of Deeds).

(2) If the property is recorded on a plat map, a copy of the recorded plat indicating both the location of the property and the official recordation information (plat book volume and page number) and bearing the seal of the appropriate recordation official. If the property is not recorded on a plat map, FEMA requires copies of the tax map or other suitable maps to help in locating the property accurately.

(3) A topographic map or other information indicating existing ground elevations and the date of fill. FEMA's determination to exclude a legally defined parcel of land or a structure from the area of special flood hazard will be based upon a comparison of the base flood elevations to the lowest ground elevation of the parcel or the lowest adjacent grade to the structure. If the lowest ground elevation of the entire legally defined parcel of land or the lowest adjacent grade to the structure are at or above the elevations of the base flood, FEMA will exclude the parcel and/or structure from the area of special flood hazard.

(4) Written assurance by the participating community that they have complied with the appropriate minimum floodplain management requirements under § 60.3. This includes the requirements that:

(i) Existing residential structures built in the SFHA have their lowest floor elevated to or above the base flood;

(ii) The participating community has determined that the land and any existing or proposed structures to be removed from the SFHA are ''reasonably safe from flooding'', and that they have on file, available upon request by FEMA, all supporting analyses and documentation used to make that determination;

(iii) The participating community has issued permits for all existing and proposed construction or other development; and

(iv) All necessary permits have been received from those governmental agencies where approval is required by Federal, State, or local law.

(5) If the community cannot assure that it has complied with the appropriate minimum floodplain management requirements under § 60.3, of this chapter, the map revision request will be deferred until the community remedies all violations to the maximum extent possible through coordination with FEMA. Once the remedies are in place, and the community assures that the land and structures are ''reasonably safe from flooding,'' we will process a revision to the SFHA using the criteria set forth in § 65.5(a). The community must maintain on file, and make available upon request by FEMA, all supporting analyses and documentation used in determining that the land or structures are ''reasonably safe from flooding.''

(6) Data to substantiate the base flood elevation. If we complete a Flood Insurance Study (FIS), we will use those data to substantiate the base flood elevation. Otherwise, the community may submit data provided by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resources Conservation Service, State and local water resource departments, or technical data prepared and certified by a registered professional engineer. If base flood elevations have not previously been established, we may also request hydrologic and hydraulic calculations.

(7) A revision of floodplain delineations based on fill must demonstrate that any such fill does not result in a floodway encroachment.

(b) *New topographic data.* A community may also follow the procedures described in paragraphs (a)(1) through (6) of this section to request a map revision when no physical changes have occurred in the area of special flood hazard, when no fill has been placed, and when the natural ground elevations are at or above the elevations of the base flood, where new topographic maps are more detailed or more accurate than the current map.

(c) *Certification requirements.* A registered professional engineer or licensed land surveyor must certify the items required in paragraphs (a)(3) and (6) and (b) of this section. Such certifications are subject to the provisions under § 65.2.

(d) *Submission procedures.* Submit all requests to the appropriate address serving the community's geographic area or to the FEMA Headquarters Office in Washington, DC.

4. Amend § 65.6 by adding paragraphs (a)(14) and (15) as follows:

§ 65.6 Revision of base flood elevation determinations.

(a) * * *

(14) The participating community must provide written assurance that they have complied with the appropriate minimum floodplain management requirements under § 60.3 of this chapter. This includes the requirements that:

(i) Existing residential structures built in the SFHA have their lowest floor elevated to or above the base flood;

(ii) The participating community has determined that the land and any existing or proposed structures to be removed from the SFHA are ''reasonably safe from flooding,'' and that they have on file, available upon request by FEMA, all supporting analyses and documentation used to make that determination;

(iii) The participating community has issued permits for all existing and proposed construction or other development; and

(iv) All necessary permits have been received from those governmental agencies where approval is required by Federal, State, or local law.

(15) If the community cannot assure that it has complied with the appropriate minimum floodplain management requirements under § 60.3, of this chapter the map revision request will be deferred until the community remedies all violations to the maximum extent possible through coordination with FEMA. Once the remedies are in place, and the community assures that the land and structures are ''reasonably safe from flooding,'' we will process a revision to the SFHA using the criteria set forth under § 65.6. The community must maintain on file, and make available upon request by FEMA, all supporting analyses and documentation used in determining that the land or structures are ''reasonably safe from flooding.''

* * * * *

Dated: April 30, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–11156 Filed 5–3–01; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AD20

Disaster Assistance; Public Assistance Program and Community Disaster Loan Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule.

SUMMARY: We, FEMA, are publishing an interim final rule to implement portions of the Disaster Mitigation Act of 2000 that affect large in-lieu contributions (alternate projects), irrigation facilities, critical/non-critical private nonprofit facilities, and community disaster loans.

DATE: Effective October 30, 2000. Comments on this interim final rule should be received by July 3, 2001.

ADDRESSES: Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, room 840, 500 C Street, SW., Washington, DC 20472, or (fax) (202) 646–4536, or (email) *rules@fema.gov*.

FOR FURTHER INFORMATION CONTACT: Margaret Earman, Response and Recovery Directorate, Federal Emergency Management Agency, room 401, 500 C Street, SW., Washington, DC 20472, or call (202) 646–4172 or (email) *margie.earman@fema.gov*.

SUPPLEMENTARY INFORMATION:

Large in-lieu contributions. The Disaster Mitigation Act of 2000 (DMA 2000), Pub. L. 106–390, 114 Stat. 1552 *et seq.*, amended the Federal contribution for Large in Lieu Contributions, which is known as ''alternate projects'' and is authorized under section 406(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5172, from 90 percent of the Federal share of the Federal estimate to 75 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing the facility. There is an exception to this change for publicly-owned or -controlled facilities. When a State or local government applicant selects an alternate project because unstable soil at the site of the damaged facility makes repair or restoration of that facility infeasible, the Federal contribution remains at 90 percent. The soil conditions at the project site, which make restoration infeasible, will be established in a geo-technical report that the applicant must submit. All alternate projects are still approved on a project-by-project basis.

Irrigation facilities. The DMA 2000 amended section 102(9) of the Stafford Act, 42 U.S.C 5122 to add ''irrigation'' to the definition of private nonprofit (PNP) facilities. However, not all PNP irrigation facilities are eligible for assistance. The legislative history indicates that eligible irrigation facilities include those that supply water for ''essential services of a governmental nature to the general public'' (which is the requirement for any PNP to be eligible), such as fire suppression, generating and supplying electricity, and drinking water supply. They do *not* include those that supply water for agricultural purposes. If an irrigation system serves both eligible and ineligible purposes, assistance for those portions that serve both purposes will be prorated on the basis of the proportional share of water used. For those portions that serve an eligible purpose exclusively, all disaster-related damages to that portion would be eligible. Those portions serving an ineligible purpose exclusively will not be eligible.

Critical/non-critical PNP facilities. Under section 406(a)(3) of the Stafford Act, 42 U.S.C. 5172, as amended by the DMA 2000 and before receiving assistance under the Stafford Act certain non-critical PNP facilities must apply first to the Small Business Administration (SBA) for a disaster loan for permanent restoration work in those disasters when the SBA activates its disaster loan program. DMA 2000 defines those critical services where the owner or operator need not apply to SBA to include: Water (including water provided by an irrigation organization or facility as discussed above), sewer, wastewater treatment, communications, and emergency medical care. We propose to add fire department services, emergency rescue, and nursing homes to the list of critical services. Communication services means transmission, switching and distribution of telephone traffic. Emergency medical care includes essential direct patient care to persons and includes hospitals, clinics, outpatient services, and nursing homes. Owners and operators of these critical service facilities may apply directly to FEMA for assistance.

Other eligible, but non-critical, PNP facility owners or operators must apply to SBA for a disaster loan, and if SBA declines their application they may apply to FEMA for a grant. In addition, if the maximum loan for which they are eligible does not cover all eligible damages, they may apply to FEMA for the excess damages. The requirement for owners or operators of non-critical facilities to go first to SBA applies only to permanent restoration work. All eligible PNP facility owners and operators may make requests for assistance for debris removal and emergency protective measures directly to FEMA.

Community Disaster Loans. The DMA 2000 made two amendments to the Community Disaster Loan (CDL) program, section 417 of the Stafford Act, 42 U.S.C. 5184. The DMA 2000 sets a cap of $5,000,000 on the amount of any community disaster loan that FEMA might make, and states that a local government will not be eligible for further community disaster loan assistance if the community is in arrears on any required repayment of a previous community disaster loan. We propose to amend 44 CFR 206.361 and 206.363 to reflect these statutory changes.

Administrative Procedure Act Statement

This interim final rule implements certain mandatory provisions of the Disaster Mitigation Act of 2000 that relate to the Public Assistance Program and the Community Disaster Loan Program, provisions that the Congress intended to go into effect upon enactment. In keeping with that intent, we are making this rule retroactively effective as of the date of enactment, October 30, 2000, for all disasters declared on or after that date. We seek and invite public comments, nevertheless, on this interim final rule,

which we will consider in our preparation of the final rule. Accordingly, under the authority of 5 U.S.C. 553(b)(3)(B), I find that notice and public procedure on this interim final rule are impracticable and contrary to the public interest.

National Environmental Policy Act (NEPA)

NEPA imposes requirements for considering the environmental impacts of agency decisions. It requires that an agency prepare an Environmental Impact Statement (EIS) for ''major federal actions significantly affecting the quality of the human environment.'' If an action may or may not have a significant impact, the agency must prepare an environmental assessment (EA). If, as a result of this study, the agency makes a Finding of No Significant Impact (FONSI), no further action is necessary. If it will have a significant effect, then the agency uses the EA to develop an EIS.

Categorical Exclusions. Agencies can categorically identify actions (for example, repair of a building damaged by a disaster) that do not normally have a significant impact on the environment. The purpose of this interim final rule is to amend our Stafford Act rules to incorporate part of the changes mandated by the Disaster Mitigation Act of 2000 for the Public Assistance Program and for Community Disaster Loans. Accordingly, we have determined that this rule is excluded from the preparation of an environmental assessment or environmental impact statement under 44 CFR 10.8(d)(2)(ii), where the rule is related to actions that qualify for categorical exclusion. The changes reflected in this rule are exempt from NEPA because they reflect administrative changes to the programs that have no potential to affect the environment. We would perform an environmental review under 44 CFR part 10, Environmental Considerations, on each proposed project that we would fund and implement under the authorities covered in this rule.

Paperwork Reduction Act

This rule is not subject to the provisions of the Paperwork Reduction Act. It does not require any new information collections and therefore would not revise the number and types of responses, frequency, and burden hours.

Regulatory Planning and Review

We have prepared and reviewed this interim final rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, October 4, 1993, a significant regulatory action is subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This interim final rule implements certain mandatory provisions of the Disaster Mitigation Act of 2000 that relate to the Public Assistance Program and the Community Disaster Loan Program. The authorities mandated would not of themselves have an annual effect on the economy of $100 million or more. We anticipate that the impacts of the alternate projects provision will be neutral, expecting that the savings from reducing the Federal share of the Federal estimate from 90 percent to 75 percent will be offset by fewer applications for assistance under this authority. We do not anticipate any change in costs by adding irrigation facilities to the definition of eligible private nonprofit facilities inasmuch as the rule reflects the statute and codifies our current policy and practices. Most of the private nonprofit organizations that will have to apply for SBA disaster loans before being eligible to apply for FEMA disaster assistance have damages well below the SBA loan limit of $1,500,000. We do not expect this provision will have an impact of $100,000,000 or more per year. Finally, we do not anticipate that savings from amendments to the Community Disaster Loan provision will exceed $100,000,000 over a several-year period—our experience is that disaster loan forgiveness rates are between 60 and 70 percent. Over the last 25 years, the annual amount of money forgiven has been an average of $2.7 million.

We know of no conditions that would qualify the rule as a ''significant regulatory action'' within the definition of section 3(f) of the Executive Order. To the extent possible this rule adheres to the principles of regulation as set forth in Executive Order 12866. The Office of Management and Budget has not reviewed this rule under the provisions of Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132 sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

We have reviewed this interim final rule under Executive Order 13132 and have determined that the rule does not have federalism implications as defined by the Executive Order. The rule would define and establish the conditions and criteria under which FEMA would grant public assistance and make community disaster loans. The rule would in no way that we foresee affect the distribution of power and responsibilities among the various levels of government or limit the policymaking discretion of the States.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Community facilities, Disaster Assistance, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Accordingly, amend 44 CFR Part 206 as follows:

1. The authority citation of part 206 continues to read:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Amend § 206.203 as follows:

(a) Redesignate paragraphs (d)(2)(iii) and (d)(2)(iv) as paragraphs (d)(2)(iv) and (d)(2)(v); and

(b) Revise paragraph (d)(2)(ii) and add new paragraph (d)(2)(iii) to read as follows:

§ 206.203 Federal grant assistance.

* * * * *

(d) *Funding options*—* * *

(2) *Alternate projects.* * * *

(ii) Federal funding for such alternate projects will be 75 percent of the Federal share of the approved Federal estimate of eligible costs.

(iii) If soil instability at the alternate project site makes the repair, restoration or replacement of a State or local government-owned or -controlled facility infeasible, the Federal funding for such an alternate project will be 90 percent of the Federal share of the approved Federal estimate of eligible costs.

* * * * *

3. Amend § 206.221 as follows:

(a) Redesignate paragraphs (e)(3) through (e)(6) as paragraphs (e)(4) through (e)(7); and

(b) Add new paragraph (e)(3) to read as follows:

§ 206.221 Definitions.

* * * * *

(e) *Private nonprofit facility* * * *

(3) *Irrigation facility* means those facilities that provide water for essential services of a governmental nature to the general public. Irrigation facilities include water for fire suppression, generating and supplying electricity, and drinking water supply; they do not include water for agricultural purposes.

* * * * *

4. Amend § 203.226 as follows:

(a) Redesignate paragraphs (b) through (i) as paragraphs (c) through (j); and

(b) Add new paragraph (b) to read as follows:

§ 206.226 Restoration of damaged facilities.

* * * * *

(b) *Private nonprofit facilities.* Eligible private nonprofit facilities may receive funding under the following conditions:

(1) The facility provides critical services, which include power, water (including water provided by an irrigation organization or facility in accordance with § 206.221(e)(3)), sewer services, wastewater treatment, communications, emergency medical care, fire department services, emergency rescue, and nursing homes; or

(2) The private nonprofit organization not falling within the criteria of § 206.226(b)(1) has applied for a disaster loan under section 7(b) of the Small Business Act (15 U.S.C.636(b)) and

(i) The Small Business Administration has declined the organization's application; or

(ii) Has eligible damages greater than the maximum amount of the loan for which it is eligible, in which case the excess damages are eligible for FEMA assistance.

* * * * *

5. Revise § 206.361(b) to read as follows:

§ 206.361 Loan program.

* * * * *

(b) *Amount of loan.* The amount of the loan is based upon need, not to exceed 25 percent of the operating budget of the local government for the fiscal year in which the disaster occurs, but shall not exceed $5 million. The term *fiscal year* as used in this subpart means the local government's fiscal year.

* * * * *

6. Revise § 206.363(b)(1) to read as follows:

§ 206.363 Eligibility criteria.

* * * * *

(b) *Loan eligibility*—(1) *General.* To be eligible, the local government must show that it may suffer or has suffered a substantial loss of tax and other revenues as a result of a major disaster or emergency, must demonstrate a need for financial assistance in order to perform its governmental functions, and must not be in arrears with respect to any payments due on previous loans. Loan eligibility is based on the financial condition of the local government and a review of financial information and supporting documentation accompanying the application.

* * * * *

Dated: April 30, 2001.

Joe M. Allbaugh,

Director.

[FR Doc. 01–11155 Filed 5–3–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[WT Docket No. 97–207; FCC 01–125]

Calling Party Pays Service Offering in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule, petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration of a previous Declaratory Ruling in this proceeding. This decision also terminates this proceeding regarding calling party pays service offering without taking any specific action on the issues raised in the proceeding.

FOR FURTHER INFORMATION CONTACT: Joseph A. Levin or David H. Siehl, 202–418–1310; [TTY: 202–418–7233].

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding in WT Docket No. 97–207, FCC 01–125, adopted April 9, 2001, and released April 13, 2001. The complete text of the released document is available on the Commission's Internet site, at *www.fcc.gov.* The full text is also available for inspection and copying during normal business hours in the FCC Reference Information Center (Courtyard level), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), (202) 857–3800, 445 12th Street, SW., CY–B400, Washington, DC 20054.

Synopsis of Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding

1. This Memorandum Opinion and Order on Reconsideration and Order Terminating Proceeding (MO&O) denies a Petition for Reconsideration of the Declaratory Ruling and Notice of Proposed Rulemaking in this proceeding (64 FR 38313, July 16, 1999; 64 FR 38396, July 16, 1999) regarding calling party pays service, and terminates the proceeding without action.

2. The Ohio Public Utilities Commission (Ohio Petition) alleges that the Declaratory Ruling contains ambiguous and potentially conflicting conclusions that should be clarified. As discussed in paragraphs 7 through 19 of the MO&O, because the Commission's rules permit parties to file petitions for reconsideration only for final rules, the MO&O considers only that part of the Ohio Petition which argues that calling party pays is not properly classified as a commercial mobile radio service because it does not meet the interconnected service criteria. The Commission denies the Ohio Petition, finding that calling party pays service is an interconnected for profit service to the public and, therefore, constitutes commercial mobile radio service under the Communications Act.

3. The MO&O also terminates the calling party pays proceeding without taking action. The MO&O, in paragraphs 20–24 of the full text of the MO&O, finds that it is unclear that regulatory intervention by the Commission is warranted. The Commission emphasizes, however, that the existing rules do not prevent a carrier from offering a calling party pays service to its subscribers. In terminating this

proceeding, the Commission removes any remaining regulatory uncertainty regarding calling party pays occasioned by the pendency of the proceeding.

Ordering Clauses

4. The Petition for Reconsideration of the Declaratory Ruling in this proceeding, filed by the Public Utility Commission of Ohio on August 16, 1999, is denied.

5. The proceeding is terminated without further action.

6. This action is taken pursuant to sections 1, 4(i), 7, 201, 202, 303(r), and 332 of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154(i), 157, 201, 202, 303(r), 332.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11169 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 97–213; FCC 01–126]

Communications Assistance for Law Enforcement Act

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document the Commission responds to petitions for reconsideration of previous Commission decisions in this proceeding which implements the Communications Assistance for Law Enforcement Act (CALEA). The Commission makes minor revisions to the Commission's rules to clarify the arrangements telecommunications carriers subject to CALEA must make to ensure that law enforcement agencies can contact them when necessary, and to clarify the interception activity that triggers a record keeping requirement. The Commission makes additional clarifications without altering the rules, but otherwise denies the requests for reconsideration.

DATES: Effective June 4, 2001.

FOR FURTHER INFORMATION CONTACT: John Spencer or Susan Kimmel, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order on Reconsideration (Second Order) in CC Docket No. 97–213; FCC 01–126, adopted April 9, 2001, and released April 16, 2001. The complete text of this Second Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

Synopsis of the Second Order on Reconsideration

1. This Second Order on Reconsideration (Second Order) resolves two petitions for reconsideration of the Report and Order (R&O) in this proceeding (64 FR 51462, September 23, 1999) and one petition for reconsideration of the Second Report and Order (Second R&O) in this proceeding (64 FR 55164, October 12, 1999). These decisions implemented sections 102, 105, and 301 of the Communications Assistance for Law Enforcement Act (CALEA) (Communications Assistance for Law Enforcement Act, Public Law 104–414, 108 Stat. 4279, 1994.) The Second Order makes minor revisions to 47 CFR 64.2103 and 64.2104 to clarify the arrangements telecommunications carriers subject to CALEA must make to ensure that law enforcement agencies can contact them when necessary, and the interception activity that triggers a record keeping requirement. The Second Order makes additional clarifications without altering the Commission's rules, but otherwise denies the requests for reconsideration.

2. The U.S. Department of Justice and the Federal Bureau of Investigation (FBI) seek stronger personnel security measures than those adopted in the First R&O, in order to ''ensure the trustworthiness of the private-company employees who have become increasingly responsible for implementing electronic surveillance.'' As discussed in paragraphs 4 through 14 of the Second Order, the Commission denies the FBI's request. However, the Commission encourages carriers to consider voluntarily adopting, as internal procedures, measures to respond to the concerns presented by the FBI, as appropriate, and making them part of their systems security and integrity (SSI) policies and procedures.

3. The FBI also proposes a requirement that carriers generate an automated message that would permit law enforcement agencies (LEAs) to confirm periodically that the software used to conduct an interception is working correctly and is accessing the equipment, facilities, or services of the correct subscriber. The Commission, as detailed in paragraphs 15 through 17 of the Second Order, similarly denies this proposal. In so doing, however, the Commission notes that ''there is nothing that would prevent carriers from providing this capability either on a voluntary basis or with compensation from LEAs.''

4. The FBI next asks the Commission to modify the rules, adopted in the R&O requiring that carriers report acts of unauthorized electronic surveillance that occur on their premises and compromises of their SSI procedures involving the execution of electronic surveillance ''within a reasonable period of time upon discovery.'' The FBI recommends that the Commission modify the rule to require reporting ''as soon after discovery as is reasonable in light of privacy and safety concerns and the needs of law enforcement.'' The Commission, as indicated in paragraphs 18 through 20 of the Second Order, shares the FBI's concern about the importance of prompt reporting of systems security breaches and expects carriers to report breaches with due diligence and dispatch. However, in the absence of significant problems to date, the Commission declines to adopt additional factors to further define how quickly a carrier should report a security breach to law enforcement.

5. The FBI seeks modification of the Commission's record keeping requirement in 47 CFR 64.2104(a)(1), pertaining to the commencement of interceptions. Specifically, FBI argues that the current language could lead to interpretations when the circuit is open for the duration of ''multiple intercepts, the carrier's records of these various intercepts would all show the same 'start date and time,' '' as opposed to recording individual interceptions. Thus, FBI asks the Commission to modify the phrase in § 64.2104(a)(1) from ''date and time of the opening of the circuit'' to ''date and time at which the interception of communications or access to call identifying information was enabled.'' The Commission, in paragraphs 21 through 24 of the Second Order, grants the FBI's request and modifies the rules accordingly with slight modification.

6. The National Telephone Cooperative Association (NCTA) asks that the Commission clarify the language of 47 CFR 64.2103 ''to make it obvious that a single person in not responsible for being law enforcement's point of contact[for CALEA matters], 24 hours a day, 7 days a week.'' The Commission agrees with NCTA and, as indicated in paragraphs 25 through 28 of the Second Order, modifies § 64.2102 accordingly. The Commission

additionally makes two other clarifications regarding carrier SSI policies and procedures. First, the Commission revises § 64.2103 to require carriers to place their information regarding responsible personnel and contacts in a separate appendix to their SSI policies and procedures. Second, the Commission clarifies that it will routinely make available to law enforcement agencies the carriers' responsible personnel and contact information. Finally, as discussed in paragraph 31 of the Second, Order, the Commission declines to adopt other FBI proposals contained in its late-filed supplement.

7. The Commission, in paragraphs 32 through 34 of the Second Order, denies NCTA's request that the Commission exempt small, rural telephone companies from the requirement to file with the Commission the policies and procedures they use to comply with the systems security and integrity rules. The Commission notes that small entitities have the flexibility to tailor their policies and procedures to its own unique circumstances.

8. Finally, as discussed in paragraphs 35 through 38 of the Second Order, FBI, in its petition for reconsideration and/or clarification of the Second R&O asks the Commission to clarify carriers' responsibility for CALEA compliance in resale situations. The Second R&O held that as telecommunications carriers, resellers are generally subject to all provisions of CALEA, but that ''resellers' responsibility under CALEA should be limited to their own facilities.'' FBI is concerned that law enforcement might be effectively disabled from enforcing CALEA's assistance capability obligations in certain resale situations. The FBI asks that the Commission clarify either that (1) a carrier that sells telecommunications services to a reseller is itself a ''telecommunications carrier'' under CALEA with respect to such services; or (2) if an underlying facilities-based service provider is not a ''telecommunications carrier,'' the reseller remains responsible in full for ensuring that the telecommunications services it provides to the public, and the equipment and facilities involved in providing that service, are CALEA-compliant. The Second Order clarifies that the language in the Second R&O regarding resellers exempts them from CALEA to the extent that they resell services of other, facilities-based carriers. The Commission clarifies that that decision was premised on the obligations of the underlying facilities-based carriers to comply with CALEA. Thus, to the extent that a reseller resells services or relies on facilities or equipment of an entity that is not a telecommunications carrier for purposes of the CALEA and thus is not subject to CALEA's assistance capability requirements, the Commission did not intend to exempt the reseller from its overall obligation to ensure that its services satisfy all the assistance capability requirements of section 103.

Final Regulatory Flexibility Act Certification

9. The First Report and Order in this proceeding incorporated a Final Regulatory Flexibility Analysis of the effect on small entities of the CALEA rules adopted at that time, and the Second Report and Order incorporated a Final Regulatory Flexibility Analysis of the effect on small entities of the actions taken therein, which did not include CALEA rules. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' (The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

10. This Second Order on Reconsideration does not make major revisions to the existing CALEA rules or enact new requirements, but does make minor revisions to 47 CFR 64.2103 and 64.2104. First, it clarifies the arrangements that telecommunications carriers subject to CALEA must make to ensure that law enforcement agencies can contact them when necessary, by requiring the use of a ''pull-off'' page for submitting contact information to the Commission. Second, it clarifies the definition of the interception activity that triggers a record keeping requirement. Neither change requires the collection of additional information or increases the frequency of record keeping, and the cost of complying with these revisions is nominal. Third, it clarifies without rule change that resellers are not exempt from the obligation to ensure that their services satisfy all the assistance capability requirements of section 103 of CALEA. As such, this action imposes no reporting, recordkeeping or other compliance requirement beyond those imposed by CALEA itself. Accordingly, the Commission certifies, pursuant to section 605(b), that the rule revisions adopted in this Second Order on Reconsideration will not have a significant economic impact on a substantial number of small entities.

11. The Commission will send a copy of the Second Order on Reconsideration, including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission will also send a copy of the Second Order on Reconsideration, including this final certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act of 1995 Analysis

12. This Second Order does not contain a new information collection, but only requires a change of format for future submissions of a carrier's SSI filing. Specifically, as described in paragraph 24, and in conformance with revised § 64.2103(b)(4) of the Commission's rules, 47 CFR 64.2103(b)(4), point of contact information must appear in a separate appendix attached to the SSI report.

13. This action is taken pursuant to sections 1, 2, 4(i) and (j), 201, 229, 303(f) and (r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (j), 201, 229, 303(f) and (r), and 332.

Ordering Clauses

14. Part 64 of the Commission's rules is amended.

15. The rule amendments made by this Second Order shall become effective June 4, 2001. *It Is Further Ordered* that the Consumer Information Bureau, Reference Operations Division, *shall send* a copy of this Second Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

16. The DOJ/FBI Motion to File Consolidated Reply to Oppositions to Petition for Reconsideration Exceeding Ten Pages in Length is granted.

17. The Motion for Acceptance of Supplemental Comments filed by the

Department of Justice/Federal Bureau of Investigation is granted.

18. The Petition for Reconsideration of section 105 Report and Order filed by the Department of Justice/Federal Bureau of Investigation is granted to the extent indicated herein, and is otherwise denied.

19. The Petition for Reconsideration and/or Clarification filed by the National Telephone Cooperative Association is granted to the extent indicated herein, and is otherwise denied.

20. The Petition for Reconsideration and/or Clarification filed by the Department of Justice/Federal Bureau of Investigation is granted to the extent indicated herein, and is otherwise denied.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 47 U.S.C. 225, 47 U.S.C. 251(e)(1), 151, 154, 201, 202, 205, 218–220, 254, 302, 303, and 337, unless otherwise noted. Interpret or apply section 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201–204, 208, 225, 226, 227, 229, 332, 501 and 503 unless otherwise noted.

2. Section 64.2103 is revised to read as follows:

§ 64.2103 Policies and procedures for employee supervision and control.

A telecommunications carrier shall:

(a) Appoint a senior officer or employee responsible for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier.

(b) Establish policies and procedures to implement paragraph (a) of this section, to include:

(1) A statement that carrier personnel must receive appropriate legal authorization and appropriate carrier authorization before enabling law enforcement officials and carrier personnel to implement the interception of communications or access to call-identifying information;

(2) An interpretation of the phrase ''appropriate authorization'' that encompasses the definitions of appropriate legal authorization and appropriate carrier authorization, as used in paragraph (b)(1) of this section;

(3) A detailed description of how long it will maintain its records of each interception of communications or access to call-identifying information pursuant to § 64.2104;

(4) In a separate appendix to the policies and procedures document:

(i) The name and a description of the job function of the senior officer or employee appointed pursuant to paragraph (a) of this section; and

(ii) Information necessary for law enforcement agencies to contact the senior officer or employee appointed pursuant to paragraph (a) of this section or other CALEA points of contact on a seven days a week, 24 hours a day basis.

(c) Report to the affected law enforcement agencies, within a reasonable time upon discovery:

(1) Any act of compromise of a lawful interception of communications or access to call-identifying information to unauthorized persons or entities; and

(2) Any act of unlawful electronic surveillance that occurred on its premises.

3. Section 64.2104 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 64.2104 Maintaining secure and accurate records.

(a) * * *

(1) * * *

(ii) The start date and time that the carrier enables the interception of communications or access to call identifying information;

* * * * *

[FR Doc. 01–11168 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1078, MM Docket No. 01–30, RM–10042]

Digital Television Broadcast Service; Bozeman, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KCTZ Communications, Inc., licensee of station KBZK(TV), substitutes DTV channel 13 for DTV channel 16 at Bozeman, Montana. *See* 66 FR 9062, February 6, 2001. DTV channel 13 can be allotted to Bozeman in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (45–40–24 N. and 110–52–02 W.) with a power of 160, HAAT of 305 meters and with a DTV service population of 79 thousand. Since the community of Bozeman is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 15, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–30, adopted April 27, 2001, and released May 1, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Montana, is amended by removing DTV channel 16 and adding DTV channel 13 at Bozeman.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–11173 Filed 4–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 01–1018; MM Docket No. 92–214; RM–8062, 8144, 8145, 8146 & 8147]

Radio Broadcasting Services; Columbia, Bourbon, Leasburg, Gerald, Dixon and Cuba, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document takes action on two separately filed petitions for reconsideration of the Report and Order in MM Docket No. 92–214. *See* 60 FR 62219, published December 5, 1995. The Commission dismissed as moot the petition for reconsideration filed by Lake Broadcasting, Inc., licensee of Station KBMX(FM), Channel 270A, Eldon, Missouri, and permittee for Station KFXE(FM), Channel 271A, Cuba, Missouri. The Commission dismissed Lake's petition for reconsideration following the denial of certiorari by the U.S. Supreme Court in Lake's appeal of the revocation of its licenses and construction permits. *See Contemporary Media, Inc., et al.,* v. *Federal Communications Commission,* 214 F.3d 187 (D.C. Cir 2000), *cert. denied,* 532 U.S. _____ (2001). Michael Rice, Lake's sole owner and president, had been convicted of the felonies of deviate sexual conduct and sodomy of minors. Lake and other licensees owned or controlled by Rice also made repeated misrepresentations to the Commission as to Rice's continued involvement with their stations.

The Commission also denies the petition for reconsideration filed by Central Missouri Broadcasting, Inc. Central Missouri failed to provide information demonstrating that the allotment of Channel 221A at Dixon, Missouri, was an unusable channel or that the public interest would be better served by the allotment of Channel 243A in lieu of Channel 221A at Dixon.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 92–214, adopted April 16, 2001, and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11177 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1017; MM Docket No. 91–352; RM–7866]

Radio Broadcasting Services; Ava, Branson and Mountain Grove, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission dismissed as moot the petition for reconsideration filed by Lake Broadcasting, Inc., licensee of Station KBMX(FM), Channel 270A, Eldon, Missouri, and permittee for Station KFXE(FM), Channel 271A, Cuba, Missouri. Lake has requested reconsideration of the *Report and Order,* 60 FR 62220, published December 5, 1995. The Commission dismissed Lake's petition for reconsideration following the denial of certiorari by the U.S. Supreme Court in Lake's appeal of the revocation of its licenses and construction permits. *See Contemporary Media, Inc., et al.,* v. *Federal Communications Commission,* 214 F.3d 187 (D.C. Cir 2000), *cert. denied,* 532 U.S. _____ (2001). Michael Rice, Lake's sole owner and president, had been convicted of the felonies of deviate sexual conduct and sodomy of minors. Lake and other licensees owned or controlled by Rice also made repeated misrepresentations to the Commission as to Rice's continued involvement with their stations. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 91–352, adopted April 16, 2001, and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11175 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–968, MM Docket No. 00–134; RM–9922, RM–10023]

Radio Broadcasting Services; Brighton and Stowe, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Linda A. Davidson, this document allots Channel 295A to Brighton, Vermont. This document also denies a counterproposal filed by Radio Vermont Classics, L.L.C. to upgrade Station WCVT, Channel 269A, Stowe, Vermont, to specify operation on Channel 269C3. *See* 65 FR 51575, published August 24, 2000. The reference coordinates for the Channel 295A allotment at Brighton, Vermont, are 44–49–44 and 71–54–45. Canadian concurrence in the allotment of this channel has been requested but not yet received. Therefore, if a construction permit is issued , it may be conditioned on concurrence from the Canadian government. A filing window for the Channel 295A allotment at Brighton, Vermont, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order. With this action, the proceeding is terminated.

DATES: Effective June 5, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 00–134, adopted April 11, 2001, and released April 20, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information

Center at Portals II, CY–A257, 445 12th Street, SW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by adding Brighton, Channel 295A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch Policy and Rules Division Mass Media Bureau.

[FR Doc. 01–11170 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1065; MM Docket No. 00–123, RM 9903]

Radio Broadcasting Services; Rincon, PR.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration filed by Jose J. Arzuaga, Jr., d/b/a Ocean Communications directed to the *Report and Order* in this proceeding which denied a proposal for a Channel 300B allotment at Rincon, Puerto Rico. *See* 66 FR 10658, February 16, 2001. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 00–123, adopted April 18, 2001, and released April 24, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11171 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1016; MM Docket No. 90–195, RM–7152]

Radio Broadcasting Services; Brookline, Missouri

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document dismisses as moot a Petition for Reconsideration filed by Lake Broadcasting, licensee of Station KBMX(FM), Channel 270A, Eldon, Missouri and permittee of Station KFXE(FM), Channel 271A, Cuba Missouri, of the *Report and Order* in this proceeding, which allotted Channel 271 at Brookline, Missouri, as a first local service. *See* 60 FR 62219 published December 5, 1995. Lake had argued that the Brookline allotment prejudices Lake's reconsideration petition in MM Docket 89–120 for an upgrade of its Eldon station, but the staff ruled that the Brookline petition was moot in view of the Commission's revocation of Lake's license for its Eldon and other stations, the affirmance by the U.S. Court of Appeals for the DC Circuit, and the denial of certirorari by the U.S. Supreme Court and in view of the Commission's dismissal of Lake's reconsideration petition in MM Docket 89–120. This document also denies Lake's motion to set aside the *Report and Order*, holding that the Brookline allotment is valid even though the original rulemaking proponent did not file an application for the allotment because four other parties did file applications. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Andrew Rhodes, Mass Media Bureau (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 90–195, adopted April 11, 2001, and released April 20, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals ll, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 M Street, NW., Washington, DC 20036.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11176 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 000218048–1095–03; I.D. 013100A]

RIN 0648–AN59

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Naval Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS, upon application from the U.S. Navy is issuing regulations to govern the unintentional take of a small number of marine mammals incidental to shock testing the USS WINSTON S. CHURCHILL (DDG-81) in the offshore waters of the Atlantic Ocean off Mayport, FL. Issuance of regulations governing unintentional incidental takes of marine mammals in connection with particular activities is required by the Marine Mammal Protection Act (MMPA) when the Secretary of Commerce (Secretary), after notice and opportunity for comment, finds, as here, that such takes will have a negligible impact on the species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of them for subsistence uses. These regulations do not authorize the Navy activity as such authorization is not within the jurisdiction of the Secretary. Rather, these regulations

authorize the unintentional incidental take of marine mammals in connection with such activities and prescribe methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses.

DATES: Effective May 1 through September 30, 2001.

ADDRESSES: Copies of the Letter of Authorization (LOA), the Navy application, and the NMFS Biological Opinion and Incidental Take Statement may be obtained by writing to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**). A copy of the Navy's Final Environmental Impact Statement (FEIS) for conducting the shock trial are available by contacting Will Sloger, U.S. Navy, at (843) 820–5797.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this final rule should be sent to the preceding address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055, ext. 128.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations governing the taking are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Request

On January 12, 2000, NMFS received an application for an LOA under section 101(a)(5)(A) of the MMPA from the U.S. Navy to take a small number of marine mammals incidental to shock testing the USS WINSTON S. CHURCHILL in the offshore waters of the Atlantic Ocean off either Mayport, FL, or Norfolk, VA or the offshore waters of the Gulf of Mexico off Pascagoula, MS. However, based, in part, on findings and determinations made under the National Environmental Policy Act (NEPA), the Navy has determined that Mayport, FL is the preferred location for the shock trial. As a result, NMFS has conducted its analysis of impacts on marine mammal stocks based only on this location. For the Navy to make a determination to conduct the shock trial at another location, a new negligible impact determination and a modification of these regulations would be necessary before an LOA could be issued.

Section 2366, Title 10, United States Code (10 U.S.C 2366) requires realistic survivability testing of a covered weapon system to ensure the vulnerability of that system under combat conditions is known. (In this case, the covered weapon system is the USS WINSTON S. CHURCHILL.) Realistic survivability testing means testing for the vulnerability of the ship in combat by firing munitions likely to be encountered in combat with the ship configured for combat. This testing is commonly referred to as ''Live Fire Test & Evaluation''(LFT&E). Realistic testing by firing live ammunition at the ship or detonating a real mine against the ship's hull, however, could result in the loss of a multi-million dollar Navy asset. Therefore, the Navy has established an approved LFT&E program to complete the vulnerability assessment of ships as required by 10 U.S.C. 2366. The LFT&E program includes three major areas that together provide for a complete and comprehensive evaluation of the survivability of ships in a near miss, underwater explosion environment. These areas are computer modeling and analysis, component testing, and an at-sea ship shock trial. While computer modeling and laboratory testing provide useful information, they cannot substitute for shock testing under realistic, offshore conditions as only the at-sea shock trial can provide the real-time data necessary to fully assess ship survivability.

A shock test is a series of underwater detonations that propagate a shock wave through a ship's hull under deliberate and controlled conditions. Shock tests simulate near misses from underwater explosions similar to those encountered in combat. Shock testing verifies the accuracy of design specifications for shock testing ships and systems, uncovers weaknesses in shock sensitive components that may compromise the performance of vital systems, and provides a basis for correcting deficiencies and upgrading ship and component design specifications. To minimize cost and risk to personnel, the first ship in each new class is shock tested and improvements are applied to later ships of the class.

The USS WINSTON S. CHURCHILL is the third ship in a new Flight of 23 ARLEIGH BURKE (DDG 51)-class guided missile destroyers being acquired by the Navy. (A Flight is a subset of a class of ships to which significant modifications/upgrades have been made.) These ships are referred to as the Flight IIA ships and they represent the largest single upgrade to the original DDG 51-class destroyer.

The USS JOHN PAUL JONES (DDG 53) was shock tested off the coast of California in June 1994 to assess the survivability of the original DDG 51-class destroyer. Flight IIA ships are significantly different from the original DDG 51-class destroyers in their design. Major structural changes include the addition of a helicopter hangar, Vertical Launch System foundation changes, and raising the aft radar arrays. Major equipment changes include the addition of a ship-wide Fiber Optic Data Multiplexing System, a Zonal Electrical Power Distribution System involving the addition of switchboards and load centers throughout the ship, and the widespread use of commercial equipment in various mission critical systems to reduce the cost of the ships. Typically the lead ship of a new class or major upgrade is shock tested. The USS WINSTON S. CHURCHILL was selected as the shock trial ship because it has additional design changes that will not be included in the first two Flight IIA ship; therefore, it is more representative of the Flight.

The Navy's proposed action is to conduct a shock trial of the USS WINSTON S. CHURCHILL at an offshore, deep-water location. The ship would be subjected to a series of three or four 4,536 kg (10,000 lb) explosive charge detonations sometime between May and 30 September, 2001. Three detonations are needed to collect adequate data on survivability. A fourth detonation would be conducted by the Navy only if one of the planned three detonations fails to provide technically acceptable data (e.g., due to equipment

failure or some other technical problem).

The ship and the explosive charge would be brought closer together with each successive detonation to increase the severity of the shock. This gradation in severity would ensure that the survivability of the ship and its systems is fully assessed and the point at which failure modes begin is accurately determined. It would also reduce the chance of significant damage at the highest severity detonation. The shock trial would be conducted at a rate of one detonation per week to allow time to perform detailed inspections of the ship's systems prior to the ship experiencing the next level of shock intensity.

Comments and Responses

On December 12, 2000 (65 FR 77546), NMFS published a proposed rule to authorize the Navy to take small numbers of marine mammals incidental to the exemption and requested comments on the proposed rule and application. During the 45-day public comment period, NMFS received comments from the Marine Mammal Commission (MMC), the American Cetacean Society (ACS), the Cetacean Society International (CSI), Earth Island Institute (EII), the Humane Society of the United States (HSUS), the Natural Resources Defense Council (NRDC), the OrcaLab, the Stop LFAS Worldwide Network (SLFASWN), and the Whale and Dolphin Conservation Society (WDCS).

Activity Concerns

Comment 1: The SLFASWN considered it peculiar that the permit application lacked geo-specific information on the proposed location of the shock trial. It appeared to the commenter that without an exact location, the potential for impact is unknown. The SLFASWN would like to know the process used in determining the location for the shock trial.

Response: The application noted that the shock trial was proposed to take place in one of three locations, off Norfolk, VA, Mayport, FL, or Pascagoula, MS. While the Navy's small take application discussed only the potential impacts to marine mammals (as is appropriate), substantial information on the impacts to the total marine environment was provided in the accompanying draft environmental impact statement (DEIS) that was prepared by the Navy for this proposed action. Likewise, the Navy's DEIS provided detailed discussion on the parameters used in determining the proposed location for the shock trial.

Comment 2: The SLFASWN asked whether the proposed shock trial for the USS WINSTON S. CHURCHILL is a ''floating flotilla of future shock tests.'' The SLFASWN believes the rule would be effective for 5 years and would provide the Navy a ''carte blanche'' ticket for shock trials.

Response: The proposed shock trial for the USS WINSTON S. CHURCHILL is a single shock trial of three or four detonations that is proposed to take place between May 1 and September 30, 2001. If the Navy proposes future shock trials for other vessels, the Navy would need to meet its responsibilities under NEPA, the MMPA, and the Endangered Species Act (ESA) prior to conducting another shock trial. This final rule does not authorize additional shock trials.

MMPA Concerns

Comment 3: The MMC believes that NMFS' proposal to limit Level B acoustic harassment from explosive detonation events exclusively in terms of temporary threshold shift (TTS) is tantamount to determining that behavioral changes not related to TTS do not constitute harassment as defined in the MMPA. Such a conclusion, the MMC contends, would be inconsistent with the statutory definition of the term harassment.

Response: First, NMFS would like to clarify that the proposed criterion limiting Level B harassment to behavioral responses that are possible as a result of receiving an impairment to hearing (i.e., TTS) is limited to single-event explosions, not multiple explosive events spaced over a relatively short period of time in the same vicinity, such as multiple Signal, Underwater Sound (SUS) charges and live-fire exercises, nor to multiple impulse-noise sources, such as seismic airguns and the pulse-power generator, nor to intermittent and continuous noise sources such as Navy sonars and oceanographic instrumentation. All of these other listed activities have at least the potential to cause significant behavioral responses on the part of marine mammals that are not related to behavioral disruptions caused by TTS.

For those species of marine mammals capable of hearing the distant sounds from the detonation, simply hearing the acoustic signal and not reacting to that noise is not considered a ''take.'' NMFS considers a Level B harassment take to occur within the maximum zone for TTS, which, for this action at Mayport, FL, has been calculated by the Navy as follows:

Water Depth (ft/m)	600/183	1200/366	2,300/701
Odontocetes (nm/km)	7.2/13.3	11.0/20.4	13.6*/25.2
Mysticetes (nm/km)	13.0/24.1	13.0/24.1	15.0/27.8

* determined by the 12 lbs/in^2 criterion

The different TTS distances between odontocetes and mysticetes are based on their probable differing hearing sensitivity to LF sounds (Navy FEIS, 2001).

Beyond the range for TTS, NMFS has been unable to identify behavioral reactions on the part of a marine mammal from a single-noise event that would both disrupt some behavior pattern in a biologically significant way and have a reasonable probability of occurrence. For a take to be considered to have occurred, the marine mammal would need to show some form of behavioral reaction and the only behavioral reactions possibly occurring from a single noise event are either momentary reactions such as an orientation response relative to the unusual event or other reactions such as a startle response, an interruption in vocalization, or a sensitization.

The definition of Level B harassment, when applied to incidental takings, questions whether a single, minor, reaction (such as a startle, a ''heads-up'' (alert) display, or a single modified dive sequence by either pinnipeds or cetaceans), that has no biological context, should qualify as a ''take'' under the definition of ''harassment'' under the MMPA. As stated by NMFS previously (66 FR 9291, February 7, 2001), if the only reaction to the activity on the part of the marine mammal is within the normal repertoire of actions that are required to carry out that behavioral pattern, NMFS considers the activity not to have caused an incidental disruption of the behavioral pattern, provided the animal's reaction is not otherwise significant enough to be considered disruptive due to length or severity. Therefore, for example, a short-

term change in breathing rates or a somewhat shortened or lengthened dive sequence that are within the animal's normal range and that do not have any biological significance (i.e., do not disrupt the animal's overall behavioral pattern of breathing under the circumstances), do not rise to a level requiring a small take authorization. For single explosive events, a determination that these minor effects should not be considered to be harassment of a marine mammal was supported unanimously by the marine mammal scientists attending the NMFS Acoustic Criteria Workshop in 1998. Under a restrictive definition of ''harassment'' under the MMPA, an incidental taking could be presumed to occur for even a single pinniped lifting or turning its head to look at a passing, offshore, watercraft. NMFS notes that, in 50 CFR 17.3, the U.S. Fish and Wildlife Service defines harass as an action that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, and sheltering.'' NMFS supports such a definition when marine mammals are taken incidental to the conduct of a maritime activity. However, the application of Level B harassment as described in this preamble is intended to apply only to incidental taking by harassment for this and similar one-time actions and not for actions directed at marine mammals which may have a lower threshold of application.

Comment 4: The HSUS, in a follow-up comment to NMFS' response number 1 in the proposed rule, questions NMFS considering a permanent threshold shift (PTS) in hearing to be Level A harassment. According to HSUS, Level A harassment should be reserved for the ''potential to injure.'' Since PTS is an injury, in an acoustically oriented species, such as cetaceans, it should be considered as ''serious injury,'' not Level A harassment.

Response: Depending upon the level of severity, PTS may or may not be considered to be a serious injury. For example, a permanent 15 dB loss across the animal's entire hearing range might be considered a severe injury, whereas a permanent loss of 15 dB in only a few frequencies of the hearing range might not be considered severe. It is simply not possible at this time to make a scientific judgement about the severity of different degrees of permanent hearing loss in marine mammals with the present state of scientific knowledge. However, the MMPA does not specifically include ''injury'' under the definition of ''take;'' it includes ''harass'' under the definition of ''take'' and specifically includes ''potential to injure'' only under the definition of ''Level A harassment.'' Therefore, the MMPA does not distinguish between ''potential to injure'' and an actual injury, nor does it distinguish between serious injury and non-serious injury. However, it is NMFS' preference to review all small take applications with the potential to cause serious injury under section 101(a)(5)(A) of the MMPA (as the Navy is doing in this action). This was expressed by NMFS in proposed rulemaking establishing the protocol for issuing authorizations under section 101(a)(5)(D) of the MMPA (60 FR 28379, May 31, 1995).

Comment 5: The CSI, quoting from the National Research Council (NRC, 2000) report on LF sound, notes that the NRC ''recommends that in the absence of appropriate, adequately funded research ''management of sound in the ocean should remain conservative . . . in the absence of required knowledge.'' The CSI, noting that in the absence of adequate data, NMFS and the Navy should apply the Precautionary Principle, the fundamental elements of the principle being: the existence of some indication of threat of harm; the harm is serious or irreversible; scientific uncertainty as to the nature or severity of the outcome; and an obligation on decision-makers. Finally, CSI asks whether NMFS refutes the application of this principle to the LOA and rule-making at hand.

Response: The MMPA prohibits the taking of marine mammals unless exempted or permitted. Taking means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Therefore, NMFS believes that the precautionary principle is already at the core of the MMPA. However, because the MMPA authorizes the taking of marine mammals under section 101(a)(5), provided certain conditions and requirements are met, NMFS must prudently apply the Precautionary Principle through careful analysis of impacts and implementation of measures that will reduce impacts to marine mammals to the lowest level practicable. As described in this document, NMFS believes that it and the Navy have applied the Precautionary Principle to the greatest extent possible for this action through an extensive aerial monitoring and mitigation program that will protect marine mammals to the greatest extent practicable. The mitigation and monitoring program are discussed later in this document. In addition, NMFS and the Navy have applied the precautionary principle by having the decision-making process in the public forum through NEPA and notice and comment rulemaking.

Comment 6: OrcaLab requests that NMFS proceed with caution and reject both the Navy's request for permission to proceed with the ship shock trial and the proposal to classify 182 dB as Level B harassment.

Response: The Navy's proposal to classify the 182 dB (re 1 uPa^2–sec) criterion is discussed later in this document. However, NMFS must clarify that the Navy is not requesting an authorization to conduct the shock trial, only the taking of marine mammals incidental to that activity. Whether or not the Navy conducts the shock trial of the USS WINSTON S. CHURCHILL is the responsibility of the Secretary of the Navy, not NMFS.

Comment 7: The ACS requests NMFS provide peer-reviewed, independent scientific studies in support of the 182 dB (re 1 uPa^2–sec) criterion level.

Response: There is no requirement to require independent peer-reviewed research studies prior to issuing an authorization under the MMPA. Independent peer-review for marine mammal monitoring or research is required under section 101(a)(5) of the MMPA only for incidental harassment authorizations that affect Arctic subsistence uses. Since the shock trial is not taking place in Arctic waters, or affecting subsistence species, independent peer review is not required. However, it should be understood that several of the documents referenced in the proposed rule and in this document have been peer reviewed prior to publication in scientific journals. For example, the Schlundt et al. (2000) and Finneran *et al.* (2000) research papers, which are discussed later in this document, were peer reviewed prior to publication in the Journal of the Acoustical Society of America.

Comment 8: OrcaLab believes that the cetacean deaths and strandings in the Bahamas in March 2000, which coincided with U.S. Navy activities, should be sufficient evidence of the potential risks to cause NMFS to reject the authorization, at least at this time. OrcaLab and the WDCS recommend that NMFS wait until the ongoing investigation of the causes of the Bahamas strandings are known before allowing the U.S. Navy to carry out further high risk activities that involve exposing marine mammals to potentially harmful underwater sounds. The SLFASWN and others were also concerned about recent marine mammal strandings in the Bahamas and in Florida waters.

Response: In response to the stranding of beaked whales in the Bahamas on March 15, 2000, the Navy and NMFS are investigating the transit of several ships using standard, hull-mounted sonar operations within normal frequency ranges, power outputs, and duty cycles, which are, respectively: 3.5 and 7.5 kHz, 235 dB (and lower) and ''pings'' of short duration (about one-tenth of a second or less duration on a standard duty cycle of 24 seconds). Because these sonars have signal and operational characteristics very different from explosives, and because an effective monitoring and mitigation program will be required for protecting marine mammals from injury or mortality from the shock trial, NMFS does not believe it is appropriate to delay issuance of an LOA until the investigation of these strandings is complete. In this action, the Navy has recognized that conducting the ship shock trial can result in a taking of marine mammals, and in that regard, applied for an authorization under the MMPA. It should be understood, that the taking of marine mammals, including mortality, can be authorized under the MMPA, provided the taking is small and would have no more than a negligible impact on affected marine mammal populations. Those determinations will be made in this document.

The cause of the unusual stranding of bottlenose dolphins off the coast of Florida last year remains unknown and under investigation at this time.

Comment 9: The NRDC, in a footnote, expresses concern that, if NMFS continues to consider TTS as being limited to Level B harassment, because the MMPA contains an exemption for scientific research activities that produce only Level B harassment, it might weaken, to an unknown extent, the application of the MMPA.

Response: Current NMFS regulations (50 CFR 216.44(b)) prohibit issuing General Authorizations for Level B harassment for all intrusive research on marine mammals. Intrusive research, which must be authorized under a marine mammal scientific research permit under section 104 of the MMPA, is defined in 50 CFR 216.3 to include the use of a stimulus (e.g., acoustics) directed at the animal.

Rulemaking Concerns

Comment 10: The CSI objects to the arbitrary decision not to address comments of the MMC and the Commonwealth of Virginia (Commonwealth) because ''they were limited to the Navy's DEIS for shock testing.'' CSI states that it is very interested in the NMFS reply to those comments, and, by the time they are available in the Navy's FEIS, the issue at hand may be in court. The MMC also expressed concern that the proposed rule did not address its comments on the Navy DEIS in its response to comments on the Advanced Notice of Proposed Rulemaking (ANPR).

Response: NMFS did not respond to the comments contained in the MMC and Commonwealth letters on the ANPR in the proposed rule document because they did not directly address issues in the proposed rule or the application; those organizations simply attached copies of the letters they submitted to the Navy on the Navy's DEIS without further elaboration or clarification. NMFS does not consider it appropriate to respond in the **Federal Register** to attachments to letters, unless the attachment supports concerns made in the actual letter to NMFS. Although, as a cooperating agency, NMFS may review and comment on the Navy's response to those letters in the FEIS, the responsibility to reply resides with the Navy, not NMFS.

Comment 11: The MMC believes that the proposed rule relies to a significant extent on the Navy's DEIS for its interpretation and justification, and requests that previous comments be considered as incorporated by reference, and addressed in the NMFS final rule, as well as the Navy's FEIS.

Response: As is normal procedure, NMFS has incorporated into its decision-making process all comments submitted on the NEPA document that accompanies the proposed action. In this case this includes the comments submitted by the MMC and other organizations and individuals on the Navy's DEIS, and the responses made by the Navy to these recommendations and concerns as provided in the Navy's recently-released FEIS. Because NMFS has adopted the Navy's FEIS as its own on this matter, these responses can be considered to also reflect NMFS' response. Where necessary, this document provides additional clarification on certain issues raised by the MMC in its March 30, 2000, letter.

However, NMFS clarifies for future reference that it will respond in the **Federal Register** only to comments provided directly to the Agency during the designated comment period that are relevant to the proposed action. Unless NMFS is the responsible Federal agency under NEPA, or is a co-sponsor (as opposed to being a cooperating agency) for the NEPA preparation, NMFS will not respond in the **Federal Register** to comments on NEPA documents prepared by other Federal agencies.

Comment 12: The EII believes that because scientific research is insufficient to judge environmental impact from loud, undersea noise events, it is premature to issue the rule. Additional scientific research must be carried out by the Navy and NMFS in order to address the unknown factors of adverse environmental impacts of noise on marine wildlife.

Response: While NMFS agrees that more scientific research would be desirable to assess impacts from explosive events on marine mammals, NMFS does not agree that the current information is insufficient to issue small take authorizations for this type of an activity. Recognizing the difficulty of directly studying impacts of explosives on live marine mammals, the reluctance of many researchers to risk harm to marine mammals, and the objections by some members of the public to allowing even non-intrusive research on marine mammals, researchers must use either surrogate species or deceased marine mammals. This information is provided in Appendices D and E of the Navy's DEIS and FEIS on this action. NMFS believes that the information contained in the Navy's application, and the Navy's FEIS on the USS WINSTON S. CHURCHILL, along with other information, provide the best scientific information available for making a determination of negligible impact on marine mammal species.

Comment 13: The HSUS expresses concern that nothing in the proposed rule restricts the use of 182 dB (re 1 uPa^2-sec) criterion for inducing TTS to impulsive sounds only. The HSUS requests that NMFS clarify that the criterion established for the USS WINSTON S. CHURCHILL shock test is for impulsive sounds only. The NRDC believes that the proposed rule adopts a new standard for impulse-related threshold shifts (TSs). The CSI believes the proposed rule ignores the distinction between impulse and continuous noise; repetitive impulse sounds have cumulative effects.

Response: See response to Comment 3. In general, NMFS recognizes two categories of sounds in the water, impulsive and intermittent/continuous. Depending upon the rise-time of the signal and its duration, an impulsive sound may be considered as an explosion. Use of the 182 dB (re 1 uPa^2-sec) as one of the two required criteria for determining onset of TTS applies only to those types of impulsive sounds that have the short-rise time indicative of an explosion; it does not apply directly, at this time, to other forms of repetitive impulse sounds (such as seismic airguns), wherein an animal's

hearing is not given sufficient time to fully recover. It also does not apply to intermittent/continuous sounds, such as the Navy's Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar system. For repetitive impulse sounds that are not explosions, NMFS agrees with the scientists participating at the Mineral's Management Service's High Energy Seismic Survey (HESS) Workshop (MMS, 1999) and the NMFS Workshop on Acoustics, that they were apprehensive about levels above 180 dB re 1 uPa (root-mean-squared (rms)) with respect to overt behavioral, physiological, and hearing effects on marine mammals in general (MMS, 1999). It should be clarified here that the 180 dB (re 1 uPa (rms)) refers only to impulse sounds, not intermittent or continuous anthropogenic sounds. Also, as clarified at the 1998 NMFS Acoustics Criteria Workshop, the 180 dB (re 1 uPa (rms)) applies only to cetaceans; a 190 dB (re 1 uPa (rms)) level was established at that meeting for impulse sounds affecting pinniped (seals and sea lions) hearing. However, all parties recognized that the 180 dB (re 1 uPa (rms)) is only an interim criterion until such time as new information becomes available that indicates a different level to be appropriate.

Because the shock trial consists of 3–4 detonations each spaced a week apart, cumulative effects that might be anticipated with other impulse sounds are unlikely.

Comment 14: The HSUS notes that the best available scientific information on TTS in cetaceans (as well as pinnipeds) is both clearly preliminary and extremely limited in scope. Agencies should, therefore, limit its application and should not use it to establish a broad regulatory definition of Level B (acoustic) harassment.

Response: NMFS is in complete agreement with the comment. Use of the 12 psi peak-pressure and the 182 dB (re 1 uPa^2–sec) dual criterion should be limited, at this time, to single-impulse events, and not multiple-events. This was expressed in the shock trial proposed rule and previously in this document.

Comment 15: Several commenters requested NMFS to promulgate a separate proposed rule, subject to public comment and scientific scrutiny, that addresses a new standard for all marine mammal species for onset of TTS at 182 dB (re 1 uPa^2–sec).

Response: NMFS does not agree that separate rulemaking is needed before it can adopt levels for acoustic harassment. Because part of this rulemaking is the criteria NMFS proposes to use to determine levels of harassment and injury incidental to takings of marine mammals by the USS WINSTON S. CHURCHILL shock trial, it was fully available for public review and comment by the public and independent scientists at the proposed rule stage. While this document can be used as guidance for other maritime activities for determining whether an activity might result in a taking of a marine mammal (if that activity uses explosives), as will be demonstrated in this document, codifying such regulations would impede timely modification to adopt new scientific information whenever new data and information become available. For example, a sound pressure level (SPL) of 180 dB (re 1 uPa (rms)) has been generally accepted as a level (for impulse noise only) sufficient to protect marine mammals from anthropogenic noise, but only as an interim measure until additional data becomes available. Future research might indicate that this level was not sufficiently conservative to protect all species of marine mammals (or that it was overly conservative). If codified, NMFS would likely be delayed in the implementation of any new criteria until new amending regulations could be implemented (a minimum of 1 year). This is not warranted at this time because NMFS anticipates significant advances in this area in the near future. However, NMFS anticipates publishing its acoustic criteria for determining impacts from underwater noise on marine mammals shortly. Although this guidance will not be codified, it will provide the latest guidance to the affected public and governmental agencies and will be available for public review and comment.

Comment 16: The CSI objects to the use of multiple criteria in a final rule that is an energy-based TTS criterion of 182 dB (re 1 uPa^2–sec) and a 12 lbs/in2 (psi) peak pressure. Also, the HSUS does not understand the need for dual criteria. The HSUS finds it redundant and confusing and the CSI believes it will be confusing to future reviewers, as it provides no consistent scale between the two boundaries, unless the reviewer is fluent with appropriate mathematical formulas.

Response: The dual criteria were selected to provide the greatest protection for marine mammals by ensuring that future activities calculate the criterion that is most conservative for marine mammals. As explained in detail in Appendix E of the Navy's DEIS and FEIS, in most cases, the 182 dB (re 1 uPa^2-sec) criterion will be the determining factor. Therefore, while it may be difficult for nonprofessionals to calculate the appropriate ranges, acoustical scientists should have little difficulty making these calculations. NMFS believes that it would be appropriate for scientists to provide a clear explanation for reviewers on how they derived the appropriate TTS zones, using the dual criteria. The bottom line, however, is that the criterion that provides the greatest protection for marine mammals is the one that must by used by activity proponents for assessing impacts.

Comment 17: The CSI objects to NMFS' allowing such a variety of defined measurements in permit and LOA applications. Why does the CHURCHILL request use dB (re 1 uPa^2–sec) energy criterion instead of dB (re 1 uPa (rms)), as used in the SURTASS LFA sonar DEIS? Even if the technical distinction is a function of impulse versus continual sources, the scientific community has accepted an SPL of 180 dB (re 1 uPa @ 1 m) as an interim standard for human-caused noise that causes injurious marine mammal hearing threshold shift (TS), but only as an interim measure until additional data became available. Will the SURTASS LFA FEIS be modified to dB defined by energy, to maintain a consistent reference? Why isn't a consistent measure used to aid reviews?

Response: First, NMFS clarifies here that the accepted SPL is 180 dB (re 1 uPa (rms)) received level, not 180 dB (re 1 uPa @ 1 m), which references a source level. NMFS also clarifies that the 180 dB (re 1 uPa (rms)) SPL criterion has not been categorized as the level that causes an injury (or even a threshold shift in marine mammal hearing) from impulse noise, but is a consensus of some scientists and non-scientists that at some unknown SPL above that 180 dB (re 1 uPa (rms)) level, a marine mammal may incur a hearing impairment. This SPL criterion has also not been fully accepted for other types of noise, although it is currently being utilized by activities to delineate a safety zone for marine mammal protection. It is NMFS' intention, through rulemakings similar to this one, to replace this single SPL criterion, one that is not based on science, with science-based criteria, whenever feasible.

As described in the proposed rule, NMFS proposes to use a dual criterion for explosives, one for pressure and one for energy. For the energy criterion, NMFS and the Navy propose to use 182 dB (re 1 uPa^2-sec), cumulative energy flux in any 1/3 octave band above 10 Hz for mysticetes and above 100 Hz for odontocetes (and sea turtles). For the pressure criterion, the Navy and NMFS

propose using 12 psi peak pressure as suggested by Ketten (1995). Whichever criterion provides the greatest protection for marine mammals is the one that will be used during the shock trial.

The SURTASS LFA sonar rulemaking proposes to use a different criterion than either the dual criterion used in this document or the standard 180 dB (re 1 uPa (rms)). That Navy action and NMFS' proposed rule for a small take authorization for that activity use a criterion of a ''180-dB single-ping equivalent,'' which is the summation of the intensities for all received brief acoustic sounds into an equivalent exposure from one ping, which is always at a higher level than the highest individual ping received (66 FR 15375, March 19, 2001). This criterion is designed to take into account the longer duration of the LFA sonar signal (i.e., 60–100 sec).

Comment 18: The NRDC believes that the present rule establishes a criterion that, based on a single, problematic study, is substantially weaker than earlier criteria.

Response: NMFS believes that the current rulemaking provides significant recognition that marine mammal hearing can be affected by frequency, intensity and duration. Contrary to the commenter's belief, the dual criterion is based on extensive research and analysis (as described in Appendix E of the Navy's DEIS and FEIS), and contrary to the 180 dB (re 1 uPa (rms)) criterion, which while simple and understandable, is one that is not based on science and is recognized by all parties as only an interim measure until better criteria are developed. We believe that the dual criterion is an improvement for one type of anthropogenic noise.

In the small take authorization for the taking of marine mammals incidental to the detonation of conventional military explosives within the waters of the Outer Sea Test Range of the Naval Warfare Center, Pt Mugu, Ventura County, CA (59 FR 5111, February 3, 1994), the Navy and NMFS established a safety zone for the shock trial of the USS JOHN PAUL JONES at 180 dB (re 1 uPa) and a behavioral response zone at 160 dB. The rulemakings for the USS SEAWOLF and the USS WINSTON S. CHURCHILL have provided detailed information on why a behavioral response, outside of TTS, was not appropriate for a single-shot detonation. It should be noted however, that the USS JOHN PAUL JONES shock trial off Southern California established a safety zone based upon a SPL of 180 dB (re 1 uPa)(Chief of Naval Operations, 1993). The Navy calculated the 180 dB SPL would be at 8600 ft/1.4 nm (2621 m) from the detonation point at a depth of 50 ft (15.2 m) from the water surface and at 12,150 ft/2 nm (3703 m) at 1,000 ft (309 m) below the water surface. This distance is significantly less than the Navy's calculated zone for TTS for the USS WINSTON S. CHURCHILL shock trial. Although NMFS believes that the distances would vary somewhat for the USS WINSTON S. CHURCHILL shock trial due to physical parameters of the water at the Atlantic Ocean site, they provide support for NMFS adopting the dual criterion over one established for other forms of impulse noise. Even at maximum depth, the distance for an SPL of 180 dB (re 1 uPa (rms)) would likely remain within the safety zone established for the USS WINSTON S. CHURCHILL shock trial.

Comment 19: The HSUS and CSI are concerned because the rule actually proposed an SPL for the onset of TTS of 192 dB re 1 uPa at 1 m, recalculated as energy flux. They believe that this level is higher than previously recommended by the scientific community.

Response: Please refer to response to Comment 13. Also, a source level cannot predict impacts at various distances. Therefore, NMFS presumes that the reference should be for a received level which would be written ''dB re 1 uPa (rms).''

The evidence shows that for a tonal or broadband stimulus lasting more than a quarter second, onset TTS is better predicted by the total amount of energy in the signal than by any other metric. Thus, the current reference for inducing onset TTS (the lowest threshold shift (TS) measurable) with tonal or broadband sound is 192 dB (re 1 uPa^2-sec), cumulative energy flux at the recipient (not at 1 m from the source). It so happens that a 1 sec tone at 192 dB SPL contains exactly 192 dB (re 1 uPa^2–sec) of cumulative energy flux (because the metric's reference is 1 sec). A tone of 192 dB SPL lasting 2 seconds would contain approximately twice as much cumulative energy flux (i.e., 3 dB more) or 195 dB (re 1 uPa^2-sec), cumulative energy flux. Conversely, the SPL of a 2–second tone would have to be dropped to 189 dB SPL to deliver a total of 192 dB (re 1 uPa^2–sec) over the 2–second period. In other words, the 182 dB cumulative energy flux is approximately 1/10 the cumulative energy flux in the reference tonal signal of 1 sec at 192 dB SPL. This is explained in Appendix E of the Navy's FEIS.

Comment 20: The HSUS was unable to find one of the references used by NMFS because NMFS did not provide the full reference.

Response: The Schlundt *et al* (2000) research paper was not cited in the Navy's DEIS because that document had not been published by the time the DEIS was published. NMFS does not provide full references to cited documents in the **Federal Register** because it is NMFS policy to reduce the size of Federal Register documents to the extent practicable due to costs for publication. In lieu of complete citations for all references used, NMFS noted in the proposed rule that a list of references used in the document was available upon request.

Comment 21: The MMC notes that the rationale for using a 50–percent probability of eardrum rupture as a criterion for non-lethal injury, is not clear and appears to be based on data from terrestrial mammals, rather than marine mammals. Further, there is no indication as to why there is a 50–percent probability that the eardrums of different marine mammal species would rupture at the calculated distance or that the ruptures would heal without causing problems. A better explanation of, and justification for using this criterion should be provided.

Response: Terrestrial mammal and marine mammal auditory systems have similarities in structure and function (Ketten, 1995, 1998). There are no detailed experimental results from marine mammals upon which to base a quantitative analysis of the potential effects of a 10,000 lb (4,536 kg) charge detonation on marine mammal auditory systems. Ketten (1995, 1998) addresses these same issues. By using the results from controlled underwater explosion experiments on small terrestrial mammals (dogs and sheep), reasonable assumptions can be made concerning potential auditory system impacts to small marine mammals. Under identical assumed conditions, the Navy FEIS and Ketten (1995, 1998) are consistent in the assumed overall potential impacts to marine mammals.

Fifty-percent eardrum rupture was considered as a criterion for non-lethal injury because it is a standard, statistically meaningful measure that has been estimated in a variety of mammals (Ketten 1995, 1998). Further, it provides an indirect way to estimate the range for PTS, an auditory impact that has never been studied in marine mammals (in terrestrial mammals, 50 percent incidence of TM rupture is associated with 30 percent incidence of PTS). Estimated ranges for eardrum rupture probabilities less than 50 percent would be highly variable. Therefore, instead of estimating an outer

bound for eardrum rupture or calculating a gradient or probability curve, the Navy counts 100 percent of the animals in this range as ''injured'' even though the incidence of eardrum rupture would be less than 50 percent at this range and the incidence of PTS would be less than 30 percent. By considering 100 percent of all marine mammals within the 50 percent TM rupture zone as being injured, when there is a 50–percent probability of non-injury, NMFS believes that the Navy has accounted for all marine mammals that had even a 1 percent chance of incurring TM rupture. Also adding to the conservative nature of the injury calculations, marine mammals at depths other than where the effect is maximal would also be less vulnerable to eardrum rupture.

Comment 22: The MMC also notes that any use of the probability of eardrum rupture as a criterion for defining non-lethal injury appears to reflect a misunderstanding of underwater hearing. While an eardrum rupture could have little effect on hearing, the cochlea and hair cells could be severely damaged even if no rupture of the eardrum occurred. Thus an eardrum rupture is a questionable measure of acoustic injury in marine mammals.

Response: NMFS agrees. Because the criterion is based upon land mammals rather than marine mammals, and because TM rupture research has not been conducted on marine mammals, it is not the 50–percent TM rupture itself that is the criterion used, but the ''impulse'' in psi-msec that is associated with other impacts on the body. In this case, the energy flux density that causes either the 50–percent TM rupture or the impulse that causes slight lung hemorrhage is the real criterion. This is illustrated in figures D-9 and D-10 of Appendix D in the Navy's FEIS. NMFS believes this is conservative, even if it is based on terrestrial mammals because the hearing structures of marine mammals are probably more resistant to pressure (for diving) than are terrestrial mammalian ear structures. However, because the impulse estimated to cause slight lung hemorrhage was more conservative (i.e., had a greater range), it is slight lung hemorrhage that is the defining criterion used for determining injury in this action, not the energy flux density used for 50 percent TM rupture.

Marine Mammal Acoustic Impact Concerns

Comment 23: Several commenters noted that TTS in marine mammals results in minor injury at the cellular level. The NRDC argues that common usage of the word ''injury'' makes no distinction between temporary and permanent impacts. The NRDC also argues that there is evidence obtained through light and electron microscopy of swelling and vacuolization and of shortening of the stereocilia rootlets; evidence of depletion of synaptic bodies and associated vesicles; studies showing a buckling of cochlear pillar bodies and an uncoupling of stereocilia from the tectorial membrane.

Response: NMFS agrees that an injury should not be considered something else simply because it is temporary. However, the term used by NMFS in the proposed rule was impairment, which NMFS argues does not necessarily denote an injury. The source of the information encapsulated in this comment is from Liberman et al. (1987) regarding swelling, vacuolization and rootlet shortening, from Henry et al. (1995) regarding synaptic depletion-both as reported in Appendix E of the Navy's DEIS and FEIS and from Nordmann et al.'s (2000) research on chinchillas regarding pillar buckling and stereocilia uncoupling. Swelling, vacuolization, shortening and depletion were examined at TS levels associated with TTS and were deemed by the authors to be fully recoverable without the loss and replacement of tissue. Nordmann et al. (2000) examined animals at TS averaging 43 dB - levels over 40 dB are associated with slight PTS. However, both pillar cell buckling and stereocilia shortening detach the hair cell from the tectorial membrane in order to protect the hair cells from injury at the expense of a temporary loss of hearing sensitivity. That is, the buckling of pillar cells and shortening of stereocilia together function as a ''partially protective response'' (Nordmann *et al.*, 2000). In other words, pillar cells and stereocilia are designed to work this way, time after time. Therefore, buckling and shortening can be considered to be adaptations that protect the hair cells from injury, and are not injuries in and of themselves.

NMFS notes however, that whereas TTS does not result in cell destruction, even minor boat propeller strikes on manatees (a comparison used by the HSUS to indicate levels of injury from serious to non-serious) result in the destruction of cellular tissue which must be replaced if recovery is to occur.

Comment 24: The HSUS and the WDCS express concern over NMFS' use of the 182 dB (re 1 uPa^2–sec) criterion for both mysticetes and odontocetes. The HSUS notes that NMFS agrees that the SPL that would cause TTS in cetaceans by explosives has not been tested empirically on live cetaceans. The HSUS questions the appropriateness of using the Ridgway *et al.* (1997) results in the context of shock testing.

Response: The dual criterion was developed for this action as an estimate for impulsive waveforms from available tonal data, not for all waveforms. In the energy portion of the dual criterion, the specified energy in lower frequencies is estimated for mysticetes and in higher frequencies for odontocetes to accommodate for differences in the most sensitive frequencies. The only cross-species assumption made is that the amount of energy required for onset TTS will be similar in both odontocetes and mysticetes.

The first direct tests of explosives on cetaceans have recently been completed by Finneran *et al.* (2000). Those tests delivered 179 dB (re 1 uPa^2–sec) energy at about 10 psi to dolphins in a waveform that simulated a distant blast without inducing onset TTS. Finneran *et al.* (2000) found no TS in masked-hearing thresholds, defined as a 6-dB or larger increase in threshold over pre-exposure levels, had been observed at the highest impulse level generated (500 kg (1102 lbs) at 1.7 km (0.9 nm), peak pressure 70 kPa. Other work is in progress for another type of impulsive waveform that in many respects resembles that from a close explosive source with higher levels of energy and pressure.

Comment 25: The HSUS believes that while TTS may be temporary and fully reversible, animals suffering TTS may be further injured or killed due to a temporary inability to hear approaching ships or predators. The HSUS and the CSI believe that marine mammals may also become disoriented and strand. Because this carries with it the ''potential to injure (or even kill),'' the HSUS believes TTS should be categorized as Level A harassment. The MMC, while agreeing that defining TTS as Level B harassment is reasonable provided it does not make the affected animals vulnerable to predation or otherwise affect their survival or productivity, believes it is not inconceivable that temporary hearing impairment over a period of a few days could increase the potential for injury or death of an affected animal. If such were the case, TTS would have the potential for injury and would constitute Level A harassment.

Response: As stated in the ANPR, these second level impacts due to a marine mammal having a temporary hearing impairment cannot be predicted and are, therefore, speculative. However, the principal reason that second level impacts are not considered

in classification is that any Level B disruption of behavior could, with suppositions, be seen as potentially dangerous and, therefore, considered potential Level A harassment as well. Similarly, all Level A injuries could be seen as being accompanied by some disruption of behavior and therefore, Level B disturbances as well as Level A injuries. Such reasoning blurs the distinctions that the definitions of harassment attempt to make. The NMFS believes that Level B harassment, if of sufficient degree and duration, can be very serious and require consideration. For example, moderate TTS does not necessarily mean that the animal cannot hear, only that its threshold of hearing is raised above its normal level. The extent of time that this impairment remains is dependent upon the amount of initial TS which in turn depends on the strength of the received sound and whether the TTS is in a frequency range that the animal depends on for receiving cues that would benefit survival. It should be noted that increased ambient noise levels, due to biologics, storms, shipping, and tectonic events, may also result in short-term decreases in an animal's ability to hear as well as normal. For example, ambient noise in the Hawaiian Islands Humpback Whale Sanctuary increases seasonally in conjunction with an increase in humpback whale abundance, with no known impacts to these animals. NMFS scientists believe that marine mammals have likely adopted behavioral responses, such as decreased spatial separation, slower swimming speeds, and cessation of socialization to compensate for increased ambient noise or hearing threshold levels.

Ship strikes between whales and large vessels suggest that at least certain species of large whales do not use vessel sounds to avoid interactions and there is no indication that smaller whales and dolphins with TTS would modify behavior significant enough to be struck by an approaching vessel. Finally a hypothesis that marine mammals would be subject to increased predation presumes that the predators would either not be similarly affected by the explosion or would travel from areas outside the impact zone, indicating recognition between the signal of a single detonation at distance and potentially debilitated food sources. Therefore, NMFS does not believe the evidence warrants, as suggested by the MMC and the HSUS, that all (or an unknown percentage) of the estimated numbers of Level A (PTS) and Level B (TTS) harassment takes be considered as mortalities. What this document does do, however, is to consider that 100 percent of the marine mammals within the lethal zone (1.35 km/0.73 nm) would be killed, even though larger mammals may survive their injury from the shock wave, and that 100 percent of the marine mammals within the non-lethal injury radius would be injured, even though some animals may not be injured (depending upon the animal's size and depth in the water).

NMFS notes moreover, that TTS does not cause disorientation. Disorientation is caused by vestibular affects to the inner ear, not related to TTS (although an animal having vestibular effects could also suffer from TTS). For example, humans attending certain sport or music events may incur a TTS impairment due to the noise, but are not noted for being disoriented afterwards, unless caused by something other than noise.

Comment 26: The WDCS supports the previous comments by quoting Ketten (1998) that ''...sublethal impacts may ultimately be as devastating as lethal impacts, causing death indirectly through behavioral reactions, such as panic, as well as impaired foraging or predator detection, but the potential for this type of extended or delayed impact from any sound source is not well understood for any mammal.'' Also, the MMC notes that there is the possibility that repeated exposure to sounds capable of causing TTS increases the likelihood that animals would be injured.

Response: The quoted statement was taken out of context. The sentence preceding the one quoted by the WDCS, which clarifies the author's intent, reads: ''Sublethal impacts are those in which a hearing loss is caused by exposures to sounds that exceed the ear's tolerance to some acoustic parameter, i.e., auditory damage occurs from metabolic exhaustion or over-extension of one or more inner ear components.'' In the two quoted sentences, it is clear that Ketten (1998) did not distinguish between TTS and PTS at this point in her paper. NMFS and the Navy do not dispute that marine mammals suffering from acute, long-term, hearing impairment may have decreased survival rates, even though many dolphins and pilot whales thrive in social groupings, even with extreme hearing loss (called presbycusis). However, the rationale for not including TTS (and similarly, PTS) impairments as mortalities has been explained in this document previously.

While there is some recent research indicating that there is no relationship between repeated TTS exposures and an animal incurring a PTS injury, the science indicates that PTS can occur with repeated exposures of TTS without allowing animals to completely recover. However, the shock trial for the USS WINSTON S. CHURCHILL is a set of 3-4 detonations separated by a week between each detonation. Therefore, it is unlikely that animals would be in the TTS zone for more than a single detonation nor that any TTS impairment would not have recovered completely within that time. However, for multiple detonation activities that provide little time for TTS recovery, proponents would need to estimate, to the greatest extent possible, whether marine mammals are likely to be injured due to receiving multiple TTS impairments.

Comment 27: The NRDC is concerned regarding the use of the 182 dB (re 1 uPa^2–sec) criterion that it ignores the fact that a masking of 20–30 dB in the subject dolphins might result in lower TS levels. The NRDC notes that Schlundt *et al.* (2000) recommended caution in using this limited data to support other conclusions. The HSUS expresses similar concerns.

Response: NMFS agrees that a slightly lower TS might have resulted if masking had not been present. Finneran *et al.* (2000) acknowledge the possibility that larger TSs may have been observed without the masking noise. Finneran *et al.* (2000) reference Humes (1990) presentation of data for humans showing that exposure to broadband masking noise sufficient to raise pre-exposure thresholds 20 dB resulted in TTSs that were approximately 5 dB lower than those obtained without masking noise. However, at this time the data do not support the choice of any single dB level over any other level.

Comment 28: The NRDC also believes NMFS ignores the data showing a masked TTS of 8 dB, in one dolphin, at 172 dB (re 1 uPa^2–sec).

Response: According to the Navy, because of the large difference between that animal's TTS level and the other tested dolphins, that single bottlenosed dolphin was retested later and showed TTS levels similar to the other animals tested. That information is expected to be available shortly.

Comment 29: The CSI notes that NMFS has stated that ''scientists have noted that a range of only 15–20 dB may exist between onset TTS and onset of...PTS'' The CSI asks at what physical range from the detonation does the onset of PTS occur?

Response: The statement in the proposed rule was incomplete. The 15–20 dB difference refers to the difference between the SELs that cause the slightest TTS and onset PTS. Chinchillas experience full recovery

from up to 40 dB of TTS (Ahroon *et al.*, 1996) from impulsive noise. In the absence of comparable data for marine mammals, NMFS believes it is precautionary to define the onset of PTS for marine mammals to be 20 dB of TTS. This level would be conservative for chinchillas, and would likely be conservative for marine mammals. Regarding TS's themselves, the preponderance of data on terrestrial species indicates that the difference between an initial TS that results in slight TTS (onset TTS) and the initial TS that results in slight PTS (onset PTS) is about 40–60 dB. In other words, from the lowest initial TS that recovers (i.e., TTS) to the level at which recovery is incomplete by several dB (i.e., PTS), the difference is routinely found to be 40–60 dB of TS. These values are found not only with longer duration stimulation, but with repeated application of impulsive stimuli as well (Ahroon *et al.* 1996). The problem of determining the same values for marine mammals with their marine-adapted ears remains to be solved. Therefore, this remains an avenue for future investigation that NMFS encourages the Navy and others to undertake. However, because the onset of PTS in marine mammals would be expected to be quite variable dependent upon the ear structure of the mammalian group (mysticetes, odontocetes, pinnipeds) and species specific sensitivity, the health of the individual animal, and the characteristics of both the water and the acoustic source, there may not be a single value to establish for determining onset PTS. Therefore, NMFS has decided to reserve detailed discussion or use of this alternative methodology for estimating PTS for a future notice and comment rulemaking and has determined to use an alternative, simpler method for calculating a zone for non-serious injury to hearing for the shock trial of the USS WINSTON S. CHURCHILL. This method derives from human damage risk criteria (DRC) as well as clinical and experimental observations of PTS.

According to Richardson *et al.* (1995), the distances at which marine mammal auditory systems might be at risk for PTS from a single explosive pulse can be estimated based on extrapolations from human DRC. Based on the data presented by Richardson *et al.* (1995), PTS might be expected to occur within distances of about 1.7 nm (3.1 km) from the detonation point for a 10,000–lb (4,536–kg) charge. More relevant for marine mammals, Ketten (1995) hypothesized a PTS/TTS transition zone extending from about 0.9 km (0.5 nm) from the detonation point to 5 km (2.7 nm) from the detonation point for a 10,000–lb (4,536–kg) charge. This is illustrated in figures D-9 and D-10 of Appendix D in the Navy's FEIS. Based on Ketten's calculations, and the fact that shock wave intensity decays exponentially with distance, it would be reasonable to assume that PTS is unlikely to occur beyond the monitored buffer zone (3 nm/5.6 km) for the shock trial of the USS WINSTON S. CHURCHILL. Therefore, the zone between the range that has the potential to produce either the onset of slight lung hemorrhage or 50–percent TM rupture (usually slight lung hemorrhage is the more sensitive indicator), which is 1.22 nm/2.25 km from the detonation, and the outer edge of the buffer zone (3 nm/5.6 km) could be an area wherein marine mammals might incur a non-serious PTS injury. NMFS notes however, that because the Navy has calculated a take by injury wherein 100 percent of the marine mammals within the injury zone would be injured when in fact the incidence of eardrum rupture would be less than 50 percent at this range and the incidence of PTS would be less than 30 percent, there is no need to recalculate take by injury levels due to this slightly extended zone of possible slight injury to the ear.

Comment 30: The CSI continues that the Navy application shows a representative point of injury at 1.22 nm (2.25 km), defined as 25.3 psi-msec, or 175 Pa-sec. A representative point of harassment (TTS) at 17.7 nm (32.8 km) defines the outside of the TTS envelope, where the received level is 182 dB energy. If onset TTS occurs as far out as 17.7 nm (32.8 km) does this imply that the detonations lose only 20 dB over 16.5 nm (39.6 km), from a point somewhere inside the ''slight lung hemorrhage injury'' zone?

Response: NMFS is unaware of the calculations used by the commenter to determine that detonations lost 20 dB over 16.5 nm (39.6 km) so it is unable to respond directly to the comment. However, it should be noted that the stated distance for onset-TTS should not be taken as an implicit statement about the rate of signal loss out to that distance, but rather as one about the worst-case propagation distances and animal depths that insures that all affected marine mammals are counted. The Navy calculated the farthest extent of TTS harassment for odontocetes at Norfolk at 17.7 nm (32.8 km) and 23 nm (42.6 km) for mysticetes. However, the preferred location for the shock trial is Mayport, FL where those maximum ranges for TTS harassment are 13.6 nm (25.2 km) and 15.0 nm (27.8 km) respectively. These ranges are depth dependent (see table in response to comment 3) and distances were based on whichever of the dual criteria provided the greatest distance for calculating TTS.

Comment 31: The HSUS requested clarification of the discrepancy between the use of 182 re 1 uPa^2–sec used in the proposed rule and the Navy DEIS'' use of the term 182 dB re uPa^2–sec.

Response: Both documents should read 182 dB re 1 uPa^2–sec. The two units are interchangeable and mean the same thing once a reader recognizes that the standard reference used in the document is for the water standard (re 1 uPa^2–sec) and not the in-air standard (re 20 uPa^2–sec). Because NMFS processes small take applications for both in-air and in-water incidental takings, it prefers to use the full reference to reduce confusion. This has been noted recently making faulty comparisons between loud underwater noise source levels with received levels of familiar terrestrial noise sources without noting that different standards were being used for each and compensating for those differences (see Chapman and Ellis (1998) for more information).

Comment 32: The WDCS cite Ketten (1998) that ''Sharp rise-time signals have been shown also to produce broad spectrum PTS at lower intensities than slow onset signals both in air and in water.'' and ''Although technically a pressure induced injury, hearing loss and the accompanying gross structural damage to the ear from blasts are more appropriately thought of as the result of the inability of the ear to accommodate the sudden, extreme pressure differentials and over-pressures from the shock wave.''

Response: Neither NMFS nor the Navy disagree with these statements. The Ketten (1998) document is one of the primary references cited in Appendix D of the Navy's DEIS and FEIS.

Comment 33: The WDCS also cites statements by Croll *et al.* (1999) that baleen whales could suffer temporary auditory damage at noise levels as low as 120 dB and, secondly, that physiological effects could occur well before 180 dB. The WDCS believes that NMFS and the Navy have totally disregarded these statements.

Response: Although NMFS was unable to verify the statements directly to the reference, these dB levels apparently derive from Richardson *et al.*(1995) for effects on marine mammals extrapolated from human DRC and from work done by Malme *et al.*(1983, 1984, 1988). For reasons explained previously

in this document, one must consider duration of the signal and the type of noise (impulse or intermittent/continuous) before making generalities on impacts based solely on an SPL.

Comment 34: The HSUS uses the Kastak *et al.* (1999) paper on three species of pinnipeds to support a more precautionary approach to noise standards than suggested by Ridgway *et al.* (1997).

Response: Kastak *et al.* (1999) documented TTS in three species of pinnipeds exposed to varying levels of octave band noise (OBN) for periods on the order of 20 minutes. OBN center frequencies from 100 to 2,000 Hz were used in these tests, and the results presented in the paper pooled the data from each exposure frequency. The results indicate onset of TTS at mean values of 137, 150, and 148 dB (re 1 uPa) for the harbor seal, sea lion and elephant seal, respectively, for 20– to 22–minute exposures of OBN. Because of the pooling effect, these data also have variations around the mean on the order of -5 to +10 dB. As described in the account of the test, these levels can be considered to represent the lower level for onset of TTS for a 20–minute signal. However, NMFS notes that because TTS may result from a brief exposure to a loud sound, intermediate exposure to a sound of intermediate loudness, or prolonged exposure to a faint sound, sound duration and intensity can be considered to trade off with each other in causing TTS, as is indicated in the work by Kastak *et al.* (1999). This is one reason why NMFS advises caution in the widespread advocation for the use of the 180 dB (re 1 uPa (rms)) standard for noise sources other than impulse noise.

Comment 35: The HSUS disagrees with NMFS' concurrence of the Navy's use of the human auditory DRC for determining criteria for marine mammals. The HSUS notes that in the Navy's SURTASS LFA sonar DEIS, the Navy established a safe received level for continuous LF sound for humans at 145 dB (re 1 uPa (rms)), but at 180 dB (re 1 uPa (rms)) for marine mammals. The HSUS, therefore, finds it inconsistent and illogical for NMFS to then claim human auditory DRC are an appropriate standard for marine mammals and if they do so, NMFS and the Navy should consistently apply the most conservative human standards.

Response: In this action, NMFS and the Navy do not use quantitative human DRC to establish criteria for TTS in marine mammals, its only use in this document was to provide support for the qualitative determination that TTS should not be considered as an injury.

In the SURTASS LFA sonar action, the Navy did not establish the 145 dB human diver criterion based on human DRC but on a comprehensive study conducted by the Navy in conjunction with a consortium of university and military laboratories (Navy SURTASS LFA Sonar Technical Report 3, 1999). These two acoustic values mentioned by the commenter for intermittent noise represent different criteria: psychological aversion from direct measurements with human divers (145 dB) and the exposure level at or above which all marine mammals are evaluated (180 dB) for impulse noise. The level of potential effects for humans is lower than that for marine mammals primarily because of the inherent physiological and psychological differences. A human diver is in an unnatural, hazardous and unpredictable environment when diving. Breathing compressed air introduces special risks for humans underwater. The potential for a startle response that could have serious consequences is much greater for humans underwater than for a marine mammal whereas marine mammals are in their natural habitat, their ear structure are pressure-adapted to their environment, and they are accustomed to hearing LF sounds underwater.

Comment 36: The HSUS is unable to reconcile the statement that ''[t]he criteria for differentiating TTS and PTS zones are not species and media-dependent and may be strongly influenced by the health of the ear'' with the extrapolation of human DRC and a single study's (i.e., Ridgway *et al.* (1997)) results to all marine mammals and sea turtles.

Response: As mentioned in the previous comment, the Navy's DEIS and FEIS do not extrapolate specific values from human DRC. NMFS has addressed the methodology for differentiating TTS between mysticetes and odontocetes earlier in this document. Given that there are data on two marine-adapted cetaceans, until additional anatomical or other data become available, these estimates are better than quantitative generalizations from the data of terrestrials or longer chains of extrapolation from general models.

Appendix E Concerns

This section contains responses to comments on Appendix E of the Navy's DEIS that have not been addressed previously in this document.

Comment 37: The HSUS and the CSI note that Appendix E of the Navy's DEIS acknowledges that PTS in humans can be induced by ''chronic exposure to nonpainful SPLs and...PTS may not be detected until later in life.'' This, HSUS notes, is highly relevant to the work done on marine mammals. If chronic exposure to non-painful sounds can cause PTS, which may not be detected until long after exposure to the sounds, then the reliance on behavioral indicators alone for harassment criteria for marine mammals seems questionable. The HSUS understands that this is why the Navy has chosen TS criteria for Level A and Level B harassment, but the speculative nature of these criteria for all marine mammals is also highly questionable.

Response: First, it should be recognized that the quoted sentence means that the detection of PTS long after exposure was the result of not having looked for the PTS a short time after exposure, not that PTS lay hidden or dormant and arose long after the exposure. Second, ''chronic exposure'' means long-term exposure, a condition that is not relevant to this shock trial (or to other single exposure explosion events). Please refer to the response to comment 34 regarding duration of sounds.

The USS SEAWOLF and the USS WINSTON S. CHURCHILL EISs are the first to date that spell out in detail with full references to the primary literature, the complicated series of questions that must be answered to put marine environmental impact assessments from explosives on a systematic and rational, rather than a speculative, footing.

Comment 38: The WDCS noted that Appendix E states that TTS studies with impulsive stimuli have been conducted, but the results are not yet available. Would the results of these studies not have been considered important here to increase our understanding of such activities?

Response: This research has been completed, published and discussed previously in this document. Other relevant research is in progress. Please refer to the response to Comment 24 on the findings of Finneran *et al.* (2000).

Comment 39: The HSUS finds questionable the extrapolation of the results from Ahroon *et al.* (1996) on chinchillas to generate a broad concept about TTS.

Response: The results of the cited study are discussed in a very extensive review and integration of other studies of other species. In particular, the stated conclusion rests more firmly on the work of Liberman *et al.* (1987) at the electron microscopic level of analysis with the highly systematic study of Ahroon *et al.*(1996) lending support at the light microscope level of analysis. Other studies of various types on various species are also cited that

directly and indirectly support the findings of Lieberman et al. (1987) and Ahroon et al. (1996).

Comment 40: The HSUS does not agree with Appendix E's broadly extrapolating the results from Ridgway et al.(1997) as a cautious use of data. The HSUS does not consider these results to be ''good'' scientific information for marine mammals other than bottlenose dolphins. Given the many caveats that the Navy includes in its discussion of hearing thresholds, the HSUS fails to see how it can then conclude that broadly extrapolating the data from the Ridgway study for management purposes affecting all marine protected species is cautious.

Response: The commenter fails to recognize the wealth of supporting research and discussion contained in Appendix E, in addition to the work by Ridgway *et al.*(1997). Since the determination of levels of impact derived from the analysis contained in Appendix E is far more conservative than the use of a single SPL criterion recommended by several commenters as an alternative, NMFS believes that the extrapolations can be considered cautious. As a result, NMFS is able to conclude that the information contained in this document and other supporting research is the best scientific information available on the subject.

Comment 41: The HSUS strongly disputes the assumptions made to conduct the analyses for calculating TTS impact zones are conservative.

Response: NMFS does not concur. NMFS believes the analysis contained in the Navy's DEIS (and FEIS) uses a series of extremely conservative assumptions regarding propagation-the water depth of greatest propagation in each possible test area, the animal depth of highest pressure or energy regardless of each species' preference, highly reflective boundaries (bottom and surface) and the sound velocity profile of greatest propagation. In other words, the worst case propagation contours were used to derive the longest possible distance and thus, the greatest possible number of animals of each species were subsumed in the count. The basic metrics of pressure and energy used in the analysis were derived as described in Appendix E with a series of conservative assumptions. As explained in that document, even though new data continues to emerge and refinements will inevitably modify estimates up or down by small amounts, the overall series of assumptions and their applications allow for some error while still remaining conservative in their estimates.

LOA Concerns

Comment 42: The MMC notes that not all marine mammal species that might be taken incidental to the shock tests are included in the proposed authorization. Inasmuch as it is unlikely that observers will be able to detect and identify all marine mammals within the vicinity of the test site, the MMC questions whether the applicant will be able to ensure compliance with this provision.

Response: The paragraph in the proposed regulations cited by the MMC is a standard paragraph in all LOAs and IHAs to ensure that the list of those species expected to be taken is as complete as possible. Unless commenters provide NMFS with additional information on those marine mammal species that it suspects might be within the shock test areas that have not been included in the Navy's application, NMFS must rely on its expertise and from the list of marine mammals described in the Navy application and DEIS. The information provided to NMFS was obtained from several aerial surveys and other sources, including seasonal distribution, and is believed to be the best scientific information available. If a marine mammal is taken that is not authorized, then the applicant is considered to be in violation of the conditions of the LOA. If the aerial observers sight and identify a marine mammal of an unauthorized species, then the shock test must be delayed to ensure that a taking does not occur. NMFS has consulted with the Navy to ensure that the list is as complete as possible.

It should be noted that the list of species expected to be taken incidental to the shock trial has been modified in this document because the Navy's FEIS has determined that the Mayport FL site is the preferred alternative. As a result, marine mammal species found in the Gulf of Mexico, and not off the east coast of Florida, have been removed from the list.

Comment 43: The MMC suggests that NMFS advise the applicant that, despite the issuance of the requested LOA, there is the possibility that conducting the shock tests as planned might constitute a violation of the MMPA and encourage the applicant to expand its request to include all marine mammal species that potentially could be taken.

Response: Please see previous response. NMFS and the Navy are unaware of any species of marine mammals that have any potential of being in the offshore waters off Mayport, FL during the period between May and September that have not been included in this document.

Navy Application Concerns

Comment 44: The HSUS notes that the Navy application cites that there were no mortalities or serious injuries detected during the shock trial of the USS JOHN PAUL JONES. The HSUS is concerned by the Navy's (and NMFS') proclivity for maintaining that absence of evidence is evidence of absence.

Response: That no mortalities or serious injuries were detected by the monitoring program during and after the USS JOHN PAUL JONES shock trial is simply a statement of fact. NMFS views this statement, made after extensive aerial and boat surveys after each detonation to locate marine mammals, as different from similar statements made by others when there is not a concerted effort to detect ''takes'' during an activity. In that context, NMFS agrees with the commenter, noting that there is a potential for marine mammal mortality and injury by this action, and for that reason, the Navy has requested a small take authorization under the MMPA.

Comment 45: The HSUS questions the validity of the Navy's assumption of random spatial distribution of groups when scientific literature indicates that cetacean groups often clump around vital resources which are not always randomly encountered or distributed.

Response: The random distribution of groups is a conservative assumption. If cetacean groups are clumped, the probability of zero groups in the Safety Range will be higher than calculated values. In other words, the probability of encountering a Safety Range with no cetacean groups would be increased. As noted in Appendix C of the Navy DEIS, ''The assumption of an approximately random distribution is reasonable for individual turtles and for mammal groups (obviously not for individuals, which are highly aggregated). To the extent that groups are distributed non-randomly, i.e., aggregated, the probability of zero will be underestimated by the Poisson distribution. In other words, if groups are themselves clustered together, then the probability of encountering zero groups in a given Safety Range-sized area will be higher than predicted by a random model. There is considerable evidence that marine mammal groups and sea turtles are not randomly distributed but are associated with certain oceanographic features. For example, cetacean densities are higher inside cold core rings and in the confluence zones between warm and cold core rings (Davis *et al.*, 2000); sea turtles have temperature preferences (Coles, 1999) and are concentrated

inshore of the Gulf Stream western wall (Fritts *et al.*, 1983). However, as discussed in Section 5.0 of the Navy's DEIS and FEIS, test site selection would use satellite imagery and aerial surveys to avoid areas where marine mammals and turtles are highly concentrated. Therefore, the assumption of random distribution is reasonable, especially for comparing among test areas since the same assumption is applied to all three test areas.

Mitigation and Monitoring Concerns

Comment 46: Given the analysis in the LOA application of the proposed testing sites, the HSUS believes that the Pascagoula (site) exhibits the ''best'' profile for minimal impact to marine life.

Response: NMFS notes that under NEPA, the Navy must assess impacts on the total human environment, not solely on impacts to marine mammals as illustrated in a table estimating the total number of marine mammal takes anticipated at the three marine sites identified as alternative locations in the Navy's application. The choice of site locations was more fully addressed in the Navy's DEIS and FEIS. In the FEIS, the Navy determined that the Mayport site provided the best location for its needs and the least overall impact to the environment. It will be up to the Navy in the development of its Record of Decision to determine the location for the shock trial.

Comment 47: The SLFASWN believes that mortality and injury will occur and that it will occur largely unobserved. Also the ''carnage'' will occur slowly over a period of time.

Response: While NMFS agrees that there is some potential for mortality and injury of marine mammals by the shock trial, NMFS does not agree that it will occur largely unobserved over a period of time. The calculations conducted by the Navy, as explained in detail in its DEIS and FEIS, indicated that the Mayport FL site may result in up to 4 mortalities and 6 injuries. As explained elsewhere in this document, the Navy believes that this level is likely an overestimate of takings that will occur during the 4–week shock trial. NMFS concurs. In addition, without further clarification by SLFASWN on its concerns on the effectiveness of the monitoring program, NMFS is unable to concur that mortality and injury will go on unobserved. NMFS believes that post-detonation aerial and surface monitoring, and coordination with the local stranding networks, as described in the Navy application, will be capable of detecting injured or dead marine mammals to the greatest extent practicable.

NEPA, ESA and Executive Order (E.O.) 12866 Concerns

Comment 48: The ACS expresses concern over whether NMFS, in its self-described capacity as a ''cooperating'' rather than an ESA-required ''consulting'' agency, is properly performing its mandated role as the gatekeeper of the MMPA. The ACS contends that NMFS, by this action, is abdicating its responsibility to uphold national environmental policy and is, in fact contributing to the degradation of the marine environment rather than protecting it.

Response: NMFS disagrees that it is not upholding its responsibilities under the MMPA, the ESA, and NEPA. NMFS has responsibilities under all three statutes and has met those responsibilities through a program of cooperation and consultation as required under 40 CFR 1501.6 which implements NEPA, section 7 of the ESA, and section 101(a)(5)(A) and other sections of the MMPA. Under the ESA, NMFS concluded consultation with the Navy on this activity on October 10, 2000.

Comment 49: The NRDC believes that NMFS is justifying the proposed rule because of the benefits of the information that the Navy would be required to provide on the effects on the marine environment, particularly marine mammals.

Response: NMFS simply provides in the proposed rule a summary of costs and benefits of the proposed action in compliance with E.O. 12866. NMFS' responsibility is to make a determination of the impacts of an activity on marine mammals and whether or not that impact is negligible; determinations are not made based on the economic benefit of the activity.

Other Concerns

Comment 50: The HSUS contends that the acoustic criteria, discussed previously in this document, were not proposed for public review in the proposed rulemaking governing the taking of marine mammals incidental to the shock trial of the USS SEAWOLF.

Response: While the commenter is correct, it should be understood that the preamble to a rulemaking cannot discuss all aspects of an application and proposed authorization, and often refers to either the application, a NEPA statement, or both for additional information. Therefore, it is important for reviewers to also review the accompanying application and any documents noted as being available for review. However, for the USS SEAWOLF proposal, the proposed rule did not mention using the 182 dB (re 1 uPa^2–sec) criterion because the Navy application and the proposed rule were published prior to the availability of the Ridgway *et al.* (1997) research paper. Based, in part by a concern raised by NMFS in a letter (October 9, 1996) to the Navy regarding its criterion of ''acoustic discomfort'' for Level B harassment, the U.S. Navy convened a scientific working group to review and revise Appendix E of the USS SEAWOLF DEIS. The FEIS for the USS SEAWOLF, with the revised Appendix E, was released in May, 1998. A similar concern on the Navy's use of ''acoustic discomfort'' to characterize Level B harassment was also raised by the MMC in its letter to NMFS on September 16, 1996, in response to the proposed rule. NMFS' response to the MMC concern was then addressed in the final rule for the SEAWOLF small take authorization, noting the revision from using only a pressure-based criterion to using both a pressure-based criterion and an energy-based criterion. However, because this was a final rulemaking, the USS WINSTON S. CHURCHILL small take authorization rulemaking provides the public with the first notice and opportunity for comment on using the dual criterion of 182 dB (re 1 uPa^2–sec) and 12 psi criteria for explosive events. As noted previously, this rulemaking is being promulgated under section 101(a)(5) of the MMPA and the Administrative Procedure Act.

Comment 51: In concluding its letter, the HSUS notes, among other items previously addressed in this document, that the preliminary nature of the information provided by the Navy and NMFS is insufficient justification for abandoning truly precautionary acoustic standards for harassment of 140–160 dB re 1 uPa at 1 m.

Response: A source level (dB re 1 uPa at 1 m) cannot predict impacts at various distances. Therefore, NMFS presumes that the HSUS is referring here to a received level (i.e., dB re 1 uPa (rms)). The rationale for not recognizing a behavioral response by marine mammals (other than those resulting from TTS) has been addressed in response to comments 23 and 25. NMFS cautions against using acoustic standards without reference also to the type of noise (e.g., impulse, intermittent, continuous), the frequency of the sound, and the duration of the signal. Consideration should also be given to its oceanic context (e.g., Arctic, inshore, offshore waters).

Comment 52: The SLFASWN expresses concern over the increasing

number of acoustic programs occurring in the water simultaneously and wants to know if it was possible to know which other tests might have occurred in the last 15 months.

Response: NMFS does not believe that the number of acoustic programs are increasing substantially, only that these programs are coming to the attention of the public. However, even if all these activities were known, NMFS believes that this would make up only an extremely small percentage of the anthropogenic noise in the ocean. Larger, more persistent, anthropogenic noise sources include shipping, seismic surveys, oceanographic research, and, in certain areas, recreational boating. Cumulative impacts from noise in the vicinity of the proposed shock trial is discussed in the Navy's FEIS on this subject.

Description of Habitat and Marine Mammals Affected by Shock Testing

A description of the U.S. Atlantic environment, its marine life and marine mammal abundance, distribution and habitat can be found in the Navy's DEIS and FEIS on this subject and is not repeated here.

Affected Marine Mammals

A summary of the marine mammal species found in the Mayport FL area is presented here. A complete list of potentially affected marine mammal species can be found later in this document. For more detail on marine mammal abundance, density and the methods used to obtain this information, reviewers are requested to refer to either the Navy application or the Navy's FEIS. Additional information on Atlantic and Gulf coast marine mammals can be found in Waring *et al.* (1999 and 2001).

Up to 27 marine mammal species may be present in the waters off Mayport, FL, including five species of mysticetes and 22 species of odontocetes. Mysticete whales are very unlikely to occur at Mayport during the May through September time period. Odontocetes may include the sperm whale, dwarf and pygmy sperm whale, four species of beaked whales, and 15 species of dolphins and porpoises. These 22 species are listed in 50 CFR 216.151(b).

Potential Impacts to Marine Mammals

Mortality and Injury

Potential impacts to several marine mammal species known to occur in these areas from shock testing include both lethal and non-lethal injury, as well as harassment. Marine mammals may be killed or injured as a result of the explosive blast due to the response of air cavities in the body, such as the lungs and bubbles in the intestines. Effects are more likely to be most severe in near surface waters above the detonation point where the reflected shock wave creates a region of negative pressure called ''cavitation.'' This is a region of near total physical trauma within which no animals would be expected to survive. Based on calculations in Appendix D of the Navy's DEIS or FEIS, the maximum horizontal extent of the cavitation region is estimated to be 683 m (2,240 ft). This region would extend from the surface to a maximum depth of about 23 m (77 ft). A second criterion for mortality is the onset of extensive lung hemorrhage. Extensive lung hemorrhage is considered debilitating and potentially fatal. Suffocation caused by lung hemorrhage is likely to be the major cause of marine mammal death from underwater shock waves. The estimated range for the onset of extensive lung hemorrhage to marine mammals varies depending upon the animal's weight, with the smallest mammals having the greatest potential hazard range. The range predicted for a small marine mammal (e.g., a dolphin calf) is 1.35 km (0.73 nautical miles (nm)) from the detonation point. For estimating the impact from the detonation(s), NMFS and the Navy presume that 100 percent of the marine mammals within this radius would be killed, even though larger mammals may survive their injury from the shock wave.

NMFS and the Navy have established a dual criteria for determining non-lethal injury, the peak pressure that will result in: (1) The onset of slight lung hemorrhage, or (2) a 50-percent probability level for a rupture of the tympanic membrane. These are injuries from which animals would be expected to recover on their own. The range predicted for the onset of slight lung hemorrhage is 2.25 km (1.22 nm). The range predicted for 50 percent probability of eardrum TM rupture varies with the mammal's depth in the water column; the highest value being 2.16 km (1.17 nm) for a mammal at a depth of 335 m (1,100 ft). The criterion with the greater range (in this case, onset of slight lung hemorrhage) was used to estimate the number of potential non-lethal injuries. It is presumed that 100 percent of the marine mammals within this radius would be injured.

However, as noted previously, the mortality calculation based on extensive lung hemorrhage presumes that 100 percent of the animals within a radius of 1.35 km (0.73 nm) would be killed. While all animals within this radius are assumed to be killed, in reality some are unlikely to be even injured.

In addition to a non-lethal injury zone, NMFS has described in this document a method for calculating a zone of slight injury to the ear wherein marine mammals might incur a slight PTS injury. This zone is based on Ketten (1995, 1998) wherein a PTS/TTS transition zone has been hypothesized extending from about 0.9 km (0.5 nm) from the detonation point to 5 km (2.7 nm) from the detonation point for a 10,000–lb (4,536–kg) charge. This is illustrated in figures D-9 and D-10 of Appendix D in the Navy's FEIS. Based on Ketten's calculations, and the fact that shock wave intensity decays exponentially with distance, it is reasonable to assume that PTS is unlikely to occur beyond the monitored buffer zone (3 nm/5.6 km) for the shock trial of the USS WINSTON S. CHURCHILL. Therefore, the method described by NMFS considers the zone between the range that has the potential to produce impulse levels for causing either the onset of slight lung hemorrhage or the energy flux density to produce 50 percent TM rupture, which is 1.22 nm/2.25 km from the detonation, and the outer edge of the buffer zone (3 nm/5.6 km) to be an area wherein marine mammals might incur a non-serious PTS injury. NMFS notes however, that because the Navy has calculated a take by injury wherein 100 percent of the marine mammals within the injury zone would be injured when in fact the incidence of eardrum rupture would be less than 50 percent at this range and the incidence of PTS would be less than 30 percent, there is no need in the case of the USS WINSTON S. CHURCHILL to recalculate take by injury levels due to this slightly extended slight injury zone.

Finally, the Navy believes it is very unlikely that injury will occur from exposure to the chemical by-products released into the surface waters, and no permanent alteration of marine mammal habitat would occur.

Incidental Harassment

NMFS has described TTS as an example of one form of harassment (60 FR 28379, May 31, 1995). TTS is a change in the threshold of hearing (the quietest sound an animal can hear), which could temporarily affect an animal's ability to hear calls, echolocation sounds, and other ambient sounds. As such, it could result in a temporary disruption of behavioral patterns, as specified in the statutory definition of Level B harassment.

Since the small take authorization and Navy's FEIS for the USS SEAWOLF shock trial (63 FR 66069, December 1, 1998), the Navy has conducted an extensive analysis of the scientific literature, producing a good perspective on the physiological effects of TTS, as well as its use in human DRC by the Occupational Health and Safety Administration and in the National Institute for Occupational Safety and Health's (NIOSH) Criteria for Recommended Noise Standard (NIOSH, 1998). The best research to date indicates that the distortion and dysfunction of sensory tissue observed during TTS are only temporary and fully reversed upon recovery (i.e., occasional TTS produces no permanent tissue damage to the ear, only the temporary nondestructive impairment of tissue that fully recovers). As described in detail earlier in this document, this type of temporary nondestructive impairment as well as the use of TTS in human DRC are the scientific basis for no longer considering TTS as Level A harassment. Therefore, NMFS and the Navy concur that an impairment of hearing-related behavior during periods of TTS is the most reliable and meaningful estimate of Level B harassment for explosive detonation events.

Based upon information provided in the Navy's application for a small take authorization and in greater detail in Appendix E of the Navy's FEIS, a dual criterion for Level B acoustic harassment has been developed: (1) an energy-based TTS criterion of 182 dB re 1 uPa^2–sec 182 dB (re 1 uPa^2–sec), cumulative energy flux in any 1/3 octave band above 10 Hz for mysticetes and above 100 Hz for odontocetes (and sea turtles) derived from experiments with bottlenose dolphins (Ridgway *et al.*, 1997; Schlundt *et al.*, 2000); and (2) 12 psi peak pressure cited by Ketten (1995) as associated with a ''safe outer limit for the 10,000 lb (4,536 kg) charge for minimal, recoverable auditory trauma'' (i.e., TTS). The harassment range therefore is the minimum distance at which neither criterion is exceeded.

Using the 182 dB (re 1 uPa^2–sec) criterion, the Navy calculated separate ranges for odontocetes and mysticetes based on their differing sensitivity to low frequency sounds. For those odontocetes which are ''high-frequency specialists,'' all frequencies greater than or equal to 100 Hz were included. For mysticetes, which are ''low-frequency specialists,'' the frequency range was extended down to 10 Hz. Water depth is also an important factor in calculating harassment ranges. However, regardless of water depth, the Navy chose the highest values for TTS harassment ranges. Expected numbers of marine mammals within these radii (and thereby potentially receiving a TTS harassment impact) were calculated using the mean densities for the species expected in each area, and adjusting those estimates to account for submerged (undetectable) individuals. These ranges are as follows:

Water Depth (ft/m)	600/183	1200/366	2,300/701
Odontocetes (nm/km)	7.2/13.3	11.0/20.4	13.6*/25.2
Mysticetes (nm/km)	13.0/24.1	13.0/24.1	15.0/27.8

* determined by the 12 lbs/in^2 criterion

Estimated Level of Marine Mammal Takings

While the Navy does not expect that any lethal takes will result from these detonations (because of mitigation measures taken), calculations indicate that the Mayport site has the potential to result in up to 4 mortalities, 6 non-serious injuries, and 2,885 takings by harassment.

Mitigation and Monitoring Measures

The Navy's proposed action includes mitigation and monitoring that would minimize risk to marine mammals and sea turtles. These mitigation and monitoring measures are as follows:

(1) Through pre-detonation aerial surveys, the Navy will select a primary and two secondary test sites within the test area where potentially, marine mammals and sea turtle populations are the lowest, based on the results of aerial surveys conducted one to two days prior to the first detonation;

(2) Pre-detonation aerial monitoring will be conducted on the day of each detonation to evaluate the primary test site and verify that the safety range and buffer zone are free of visually detectable marine mammals and other critical marine life. If marine mammals are detected in the primary test area, the Navy will survey the secondary areas for marine mammals, and may move the shock test to one of the other two sites;

(3) Independent marine mammal biologists and acousticians will monitor the area visually (aerial and shipboard monitoring) and acoustically (by deploying sonobuoys) before each test and postpone detonation if (a) any marine mammal, sea turtle, large sargassum raft or large concentration of jellyfish is visually detected within a safety zone of 3.7 km (2.0 nm), (b) any marine mammal is acoustically detected within a safety zone of 4.16 km (2.25 nm), or (c) any large fish school, or flock of seabirds is detected within a safety zone of 1.85 km (1 nm);

(4) The area will be monitored visually (aerial and shipboard monitoring) and acoustically (by deploying sonobuoys) before each test and detonation will not occur if any marine mammal or sea turtle is within a buffer zone of an additional 1.85-km (1.0-nm) buffer zone, unless the marine mammals are on a course within the buffer zone that is taking them away from the 3.7–km (2.0nm) safety zone. A detonation will not occur if a listed marine mammal is detected within the buffer zone, and subsequently cannot be detected, until sighting and acoustic teams have searched the area for 2.5 hours (approximately 3 times the typical large whale dive duration). If a North Atlantic right whale is seen, detonation will not occur until the animal is positively relocated outside the buffer zone and at least one additional aerial monitoring of the safety range and buffer zone shows that no other right whales are present;

(5) Detonation will not occur if the sea state exceeds 3 (i.e., whitecaps on 33 to 50 percent of surface; 0.6 m (2 ft) to 0.9 m (3 ft) waves), or the visibility is not 5.6 km (3 nm) or greater, and the ceiling is not 305 m (1,000 ft) or greater;

(6) Detonation will not occur earlier than 3 hours after sunrise or later than 3 hours prior to sunset to ensure adequate daylight for pre- and post-detonation monitoring; and

(7) The area will be monitored for 48 hours after each detonation, and for 7 days following the last detonation, to find, document and track any injured animals. If post-detonation monitoring shows that marine mammals or sea turtles were killed or injured as a result of the test, or if any marine mammals or sea turtles were observed in the safety range immediately after a detonation, testing will be halted until procedures for subsequent detonations can be reviewed and changed as necessary.

Detailed descriptions of the measures for mitigation and monitoring the shock

test can be found in Section 5 of the Navy's DEIS or FEIS.

Reporting

Within 120 days of the completion of shock testing, the Navy will submit a final report to NMFS. This report will include the following information: (1) Date and time of each of the detonations; (2) a detailed description of the pre-test and post-test activities related to mitigating and monitoring the effects of explosives detonation on marine mammals and their populations; (3) the results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonations and numbers that may have been harassed due to undetected presence within the safety zone; and (4) results of coordination with coastal marine mammal/sea turtle stranding networks.

Substantial Changes to the Proposed Rule

The effective date of the rule is changed from a beginning date of April 1st to a beginning date of May 1st in order to conform with the Navy's small take application. (May 1st had been chosen by the Navy because of a determination that this date provided additional protection to sea turtles which are more abundant off the inshore waters off Mayport in April).

With the decision made by the Navy, through completion of its Record of Decision (part of which was its NEPA documentation), to conduct the shock trial in the offshore waters of the Atlantic Ocean off Mayport, FL, the list of affected marine mammals has been amended to authorize the taking of only those species with some potential to be in the Mayport, FL offshore region between May and September. The following species have therefore been removed: Blue whale (Balaenoptera musculus); fin whale (*B. physalus*); sei whale (*B. borealis*); Bryde's whale (*B. edeni*); minke whale (*B. acutorostrata*); northern right whale (*Eubalaena glacialis*); humpback whale (*Megaptera novaeangliae*); long-finned pilot whale (*Globicephala melas*); northern bottlenose whale (*Hyperoodon ampullatus*); Sowerby's beaked whale (*Mesoplodon bidens*); Atlantic white-sided dolphin (*Lagenorhynchus acutus*); harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina*).

Costs and Benefits

In addition to allowing the Navy to take a small number of marine mammals incidental to conducting the shock trial, this final rule requires the Navy to provide NMFS and the public with information on the shock trial's effect on the marine environment, especially on marine mammals. Besides the improved survivability of U.S. armed forces at sea and the Navy's multi-billion dollar ship assets, this final rule will result in NMFS and the public being provided this information. NMFS believes that obtaining this information is extremely important because shock trials are not the only explosive noise source in the world's oceans, and the scientific findings resulting from monitoring are likely to be directly applicable to future activities. Also, the mitigation measures for protecting marine mammals, sea turtles and other marine life that will be required by the final rule will result in a substantial reduction in impacts on these animals. Without these regulations, these mitigation measures could not be required to be undertaken by the U.S. Navy. Also, the cost to the Navy to comply with the mitigation and monitoring measures that will be required by this rule cannot be fully determined at this time, however NMFS believes that the cost will be approximately $ 1.8 million, due, in large part, to expenses incurred with conducting 8 aerial surveys for humpback whales and other marine mammals annually.

NEPA

On December 10, 1999 (64 FR 69267), a notice of availability of the Navy DEIS was published. The public comment for that document was extended until March 31, 2000. On February 23, 2001 (66 FR 11288), the Navy released an FEIS on this action. NMFS is a cooperating agency, as defined by the Council on Environmental Quality (40 CFR 1501.6), in the preparation of these documents. NMFS has reviewed the Navy's FEIS and does not have any significant concerns with the findings contained therein. As a result, NMFS hereby adopts the Navy FEIS as its own as provided by 40 CFR 1506.3 and finds that it is unnecessary to either prepare its own NEPA documentation on the issuance of these regulations nor to recirculate the Navy FEIS for additional comments.

ESA

The U.S. Navy requested consultation with NMFS under section 7 of the ESA on this action. In that regard, NMFS concluded consultation with the Navy on this activity on October 10, 2000. The finding of that consultation was that the shock trial is not likely to jeopardize the continued existence of any species under the jurisdiction of NMFS. A copy of the Biological Opinion is available upon request (see **ADDRESSES**).

Conclusions

While NMFS believes that detonation of three to four 4,536–kg (10,000–lb) charges may affect some marine mammals, the latest abundance and seasonal distribution estimates indicate that such taking will result in only small numbers of marine mammals being affected, and that this level of impact will have no more than a negligible impact on the populations of marine mammals inhabiting the waters of the U.S. Atlantic Coast. NMFS concurs with the U.S. Navy, as provided in its FEIS and small take application, that impacts can be mitigated by mandating a conservative safety range for marine mammal exclusion, incorporating aerial, shipboard, and acoustic survey monitoring efforts in the program both prior to, and after, detonation of explosives, and provided detonations are not conducted whenever marine mammals are either detected within the safety zone, or may enter the safety zone at the time of detonation, or if weather and sea conditions preclude adequate aerial surveillance. Since the taking will not result in more than the incidental harassment (as defined by the MMPA Amendments of 1994) of small numbers of certain species of marine mammals, will have only a negligible impact on these stocks, will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses, and, through implementation of required mitigation and monitoring measures, will result in the least practicable adverse impact on the affected marine mammal stocks, NMFS has determined that the requirements of section 101(a)(5)(A) of the MMPA have been met and the LOA can be issued.

Authorization

Accordingly, NMFS issued an LOA on the date of this document to the U.S. Navy to take small numbers of marine mammals incidental to conducting a shock trial of the USS WINSTON S. CHURCHILL in the offshore waters off Mayport, FL, provided the previously mentioned mitigation, monitoring, and reporting requirements are carried out.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, when this rule was proposed, that, if adopted,

it would not have a significant economic impact on a substantial number of small entities since it would apply only to the U.S. Navy and would have no effect, directly or indirectly, on small businesses. It will also affect a small number of contractors providing services related to reporting the impact of the shock trial on marine mammals. Some of the affected contractors may be small businesses, but the number involved would not be substantial. Further, since the monitoring and reporting requirements are what would lead to the need for their services, the economic impact on them would be beneficial. Accordingly, the analytical requirements of the Regulatory Flexibility Act do not apply and a regulatory flexibility analysis has not been prepared.

The Assistant Administrator for Fisheries, NOAA, finds for good cause, under section 553(d)(3) of Title 5 of the U.S.C., namely that it is unnecessary and contrary to public interest to delay the effective date of this rule for 30 days. This rule authorizes the issuance of an LOA by NMFS and sets forth the mitigation, monitoring and reporting requirements that the U.S. Navy must comply with in conjunction with the shock test of the USS WINSTON S. CHURCHILL. Neither NMFS nor the U.S. Navy need any time in order to come into compliance with the requirements of this rule and are prepared to implement them immediately. Further, because the U.S. Navy has completed its requirements under NEPA and has assets ready to conduct the shock trial, a delay of 30 days would be costly to the U.S. Navy and a waste of taxpayer dollars.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: April 26, 2001

Clarence Pautzke,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service

For reasons set forth in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Subpart N is added to read as follows:

Subpart N—Taking of Marine Mammals Incidental to Shock Testing the USS WINSTON S. CHURCHILL by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

Sec.

216.151 Specified activity, geographical region, and incidental take levels.
216.152 Effective dates.
216.153 Permissible methods of taking; mitigation.
216.154 Prohibitions.
216.155 Requirements for monitoring and reporting.
216.156 Modifications to the Letter of Authorization.

Subpart N—Taking of Marine Mammals Incidental to Shock Testing the USS WINSTON S. CHURCHILL by Detonation of Conventional Explosives in the Offshore Waters of the U.S. Atlantic Coast

§ 216.151 Specified activity, geographical region, and incidental take levels.

(a) Regulations in this subpart apply only to the incidental taking of marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in the detonation of conventional military explosives within the waters of the U.S. Atlantic Coast offshore Mayport, FL for the purpose of shock testing the USS WINSTON S. CHURCHILL.

(b) The incidental take of marine mammals under the activity identified in paragraph (a) of this section is limited to the following species: Sperm whale (*Physeter macrocephalus*); dwarf sperm whale (*Kogia simus*); pygmy sperm whale (*K. breviceps*); pilot whale (*Globicephala macrorhynchus*); Atlantic spotted dolphin (*Stenella frontalis*); Pantropical spotted dolphin (*S. attenuata*); striped dolphin (*Stenella coeruleoalba*); spinner dolphin (*S. longirostris*); Clymene dolphin (*S. clymene*); bottlenose dolphin (*Tursiops truncatus*); Risso's dolphin (*Grampus griseus*); rough-toothed dolphin (*Steno bredanensis*); killer whale (*Orcinus orca*); false killer whale (*Pseudorca crassidens*); pygmy killer whale (*Feresa attenuata*); Fraser's dolphin (*Lagenodelphis hosei*); melon-headed whale (*Peponocephala electra*); Cuvier's beaked whale (*Ziphius cavirostris*), Blainville's beaked whale (*Mesoplodon densirostris*); Gervais' beaked whale (*M. europaeus)*; True's beaked whale (*M. mirus*); and common dolphin (*Delphinus delphis*).

(c) The incidental take of marine mammals identified in paragraph (b) of this section is limited to a total of no more than 4 mortalities, 6 injuries, and 2,885 takings by harassment, except that the incidental taking by serious injury or mortality for species listed in paragraph (b) of this section that are also listed as threatened or endangered under § 7.11 of this title, is prohibited.

§ 216.152 Effective dates.

Regulations in this subpart are effective from May 1, 2001, through September 30, 2001.

§ 216.153 Permissible methods of taking; mitigation.

(a) Under a Letter of Authorization issued pursuant to § 216.106, the U.S. Navy may incidentally, but not intentionally, take marine mammals by harassment, injury or mortality in the course detonating up to 4 4,536 kg (10,000 lb) conventional explosive charges within the area described in § 216.151(a) provided all terms, conditions, and requirements of these regulations and such Letter of Authorization are complied with.

(b) The activity identified in paragraph (a) of this section must be conducted in a manner that minimizes, to the greatest extent possible, adverse impacts on marine mammals and their habitat. When detonating explosives, the following mitigation measures must be utilized:

(1) If marine mammals are observed within the designated safety zone prescribed in the Letter of Authorization, or within the buffer zone prescribed in the Letter of Authorization and on a course that will put them within the safety zone prior to detonation, detonation must be delayed until the marine mammals are no longer within the safety zone or on a course within the buffer zone that is taking them away from the safety zone.

(2) If a marine mammal listed under the Endangered Species Act is detected within the buffer zone, and subsequently cannot be detected, detonation must not occur until sighting and acoustic teams have searched the area for 2.5 hours.

(3) If a northern right whale is seen, detonation must not occur until the animal is positively reacquired outside the buffer zone and at least one additional aerial monitoring of the safety range and buffer zone shows that no other right whales are present;

(4) If weather and/or sea conditions as described in the Letter of Authorization preclude adequate aerial surveillance, detonation must not occur until conditions improve sufficiently for aerial surveillance to be undertaken.

(5) If post-test surveys determine that an injurious or lethal take of a marine mammal has occurred, the test procedure and the monitoring methods must be reviewed and appropriate

changes must be made prior to conducting the next detonation.

§ 216.154 Prohibitions.

Notwithstanding takings authorized by § 216.151(b) and by a Letter of Authorization issued under § 216.106, the following activities are prohibited:

(a) The taking of a marine mammal that is other than unintentional.

(b) The violation of, or failure to comply with, the terms, conditions, and requirements of this part or a Letter of Authorization issued under § 216.106.

(c) The incidental taking of any marine mammal of a species not specified in this subpart.

§ 216.155 Requirements for monitoring and reporting.

(a) The holder of the Letter of Authorization is required to cooperate with the National Marine Fisheries Service and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. The holder must notify the appropriate Regional Director at least 2 weeks prior to activities involving the detonation of explosives in order to satisfy paragraph (f) of this section.

(b) The holder of the Letter of Authorization must designate qualified on-site individuals, as specified in the Letter of Authorization, to record the effects of explosives detonation on marine mammals that inhabit the Atlantic Ocean test area.

(c) The test area must be surveyed by marine mammal biologists and other trained individuals, and the marine mammal populations monitored, 48-72 hours prior to a scheduled detonation, on the day of detonation, and for a period of time specified in the Letter of Authorization after each detonation. Monitoring shall include, but not necessarily be limited to, aerial and acoustic surveillance sufficient to ensure that no marine mammals are within the designated safety zone nor are likely to enter the designated safety zone prior to or at the time of detonation.

(d) Under the direction of a certified marine mammal veterinarian, examination and recovery of any dead or injured marine mammals will be conducted. Necropsies will be performed and tissue samples taken from any dead animals. After completion of the necropsy, animals not retained for shoreside examination will be tagged and returned to the sea. The occurrence of live marine mammals will also be documented.

(e) Activities related to the monitoring described in paragraphs (c) and (d) of this section, or in the Letter of Authorization issued under § 216.106, including the retention of marine mammals, may be conducted without the need for a separate scientific research permit. The use of retained marine mammals for scientific research other than shoreside examination must be authorized pursuant to subpart D of this part.

(f) In coordination and compliance with appropriate Navy regulations, at its discretion, the National Marine Fisheries Service may place an observer on any ship or aircraft involved in marine mammal reconnaissance, or monitoring either prior to, during, or after explosives detonation in order to monitor the impact on marine mammals.

(g) A final report must be submitted to the Director, Office of Protected Resources, no later than 120 days after completion of shock testing the USS WINSTON S. CHURCHILL. This report must contain the following information:

(1) Date and time of all detonations conducted under the Letter of Authorization.

(2) A description of all pre-detonation and post-detonation activities related to mitigating and monitoring the effects of explosives detonation on marine mammal populations.

(3) Results of the monitoring program, including numbers by species/stock of any marine mammals noted injured or killed as a result of the detonation and numbers that may have been harassed due to presence within the designated safety zone.

(4) Results of coordination with coastal marine mammal/sea turtle stranding networks.

§ 216.156 Modifications to the Letter of Authorization.

(a) In addition to complying with the provisions of § 216.106, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.151(b), or that significantly and detrimentally alters the scheduling of explosives detonation within the area specified in § 216.151(a), the Letter of Authorization issued pursuant to § 216.106 may be substantively modified without prior notification and an opportunity for public comment. Notification will be published in the **Federal Register** subsequent to the action.

[FR Doc. 01–11161 Filed 4–30–01; 3:38 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 001226367–0367–01; I.D. 121500E]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Corrections; Trip Limit Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Trip limit adjustments; correction to the 2001 specifications; fishing restrictions for the Pacific Coast groundfish fishery; request for comments.

SUMMARY: NMFS announces changes in the following trip limits for the Pacific Coast groundfish fisheries north and south of 40°10′ N. lat.: limited entry trawl for flatfish north, limited entry fixed gear and open access for minor nearshore rockfish north, open access for minor nearshore rockfish south, and open access for yellowtail rockfish taken with salmon troll gear. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) are intended to help the fisheries achieve optimum yield (OY) while protecting overfished and depleted stocks. This document also contains corrections relating to the lingcod and boccacio OYs, which were initially announced in the annual specifications and management measures that were published on January 11, 2001.

DATES: Changes to management measures are effective 0001 hours (local time) May 1, 2001, unless modified, superseded, or rescinded. These changes are effective until the effective date of the 2002 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through May 21, 2001.

ADDRESSES: Submit comments to Donna Darm, Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., Bldg. 1,

Seattle, WA 98115–0070; or Rebecca Lent, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko, Northwest Region, NMFS, 206–526–6140.

SUPPLEMENTARY INFORMATION: The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council,) in consultation with the States of Washington, Oregon, and California, at its April 2–6, 2001, meeting in Sacramento, CA. Pacific Coast groundfish landings will be monitored throughout the year, and further adjustments to the trip limits will be made as necessary to stay within the OYs and allocations announced in the annual specifications and management measures for the groundfish fishery, published in the **Federal Register** at 66 FR 2338, (January 11, 2001), as amended at 66 FR 10211, (February 14, 2001), and at 66 FR 18409, (April 9, 2001).

Limited Entry Trawl Gear Limits for Flatfish North of 40°10′ N. Lat.

A preliminary examination of trawl fleet tow locations from vessel logbook data for May to October 2000 indicates that the fleet has relocated arrowtooth flounder and other flatfish trawl activities away from areas of high canary bycatch. Based on this preliminary examination, the Council recommended increasing previously announced limits for flatfish other than Dover sole. The per month limit for all flatfish except Dover sole taken with a small footrope trawl gear for the May to October period was previously announced as 30,000 lb (13,608 kg). For the May to June period, the limit will be increased to a 50,000-lb (22,680 kg) per month limit for all flatfish except Dover sole, of which no more than 15,000 lb (6,804 kg) may be petrale sole and no more than 10,000 (4,536 kg) may be arrowtooth flounder. For the July to October period, the per month limit for all flatfish except Dover sole taken with a small footrope trawl gear will be 30,000 lb (13,608 kg) as previously announced.

With respect to the incidental catch of canary rockfish, this limit change is more conservative than the previously announced limit that allowed up to 30,000 lb (13,608 kg) of petrale sole or arrowtooth flounder to be landed. Trawl vessels are more likely to encounter canary rockfish when targeting petrale sole and arrowtooth flounder than other flatfish species. Lowering the limits for petrale sole and arrowtooth flounder are expected to reduce opportunities for vessels to take canary rockfish.

The per trip limit for arrowtooth flounder taken with large footrope trawl gear during the January to April periods has been at 20,000 lb (9,072 kg) and was to be reduced to 5,000 lb (2,268 kg) for the May to October period. To provide additional opportunity to harvest arrowtooth flounder and to encourage the harvest of Dover sole on the slope during the month of May, the large footrope trawl allowance for arrowtooth flounder will be set at 15,000 lb (6,804 kg) per trip for May. For the June to October period, the arrowtooth flounder limit will be reduced to 5,000 lb (2,268 kg) per trip as previously announced.

Limited Entry Fixed Gear and Open Access Minor Nearshore Rockfish North of 40°10′ N. Lat.

During the 2000 fishery, more than 50 percent of the available commercial allocations of northern minor nearshore rockfish went unharvested. The limited entry fleet took only 19 percent of its minor nearshore rockfish allocation in 2000, while the open access fishery took approximately 74 percent of its allocation. The best available information at the April Council meeting indicated that limited entry fisheries north of 40°10′ N. lat. had landed 4.3 percent of the minor nearshore rockfish available to the fishery, and that open access fisheries had landed 6.6 percent of their minor nearshore rockfish allocation through February 2001.

Most limited entry fixed gear vessels tend to use open access vertical hook-and-line gear to catch these species, but when using open access gear, they are constrained by the lower open access limits. Operating under open access limits has slowed the pace of harvest by limited entry vessels. The current limited entry fixed gear limit for minor nearshore rockfish north is 10,000 lb (4,536 kg) per 2-month period, no more than 4,000 lb (1,814 kg) of which may be species other than black or blue rockfish. The current open access limit for minor nearshore rockfish north is 3,000 lb (1,361 kg) per 2–month period, no more than 900 lb (408 kg) of which may be species other than black or blue rockfish.

To provide greater access to the allowable harvest levels, the Council recommended applying similar limits to both the limted entry fixed gear and open access portions of the fishery. To provide benefits to both segments of the fishery, without adversely affecting either group, and to reduce the risk of an early open access closure, the Council also recommended managing the limited entry and open access nearshore rockfish allocations collectively in 2001. For the May to December period, the limited entry fixed gear limit for minor nearshore rockfish north will be reduced to 7,000 lb (3,175 kg) per 2–month period, no more than 4,000 lb (1,814 kg) of which may be species other than black or blue rockfish. The current open access limit for minor nearshore rockfish north will be increased to 7,000 lb (3,175 kg) per 2–month period, no more than 900 lb (408 kg) of which may be species other than black or blue rockfish. Maintaining the current limits of species other that black or blue rockfish is intended to prevent excess harvest of species commonly associated with the live-fish fishery.

Open Access Fishery for Minor Nearshore Rockfish South of 40°10′ N. Lat.

The best available information at the April Council meeting indicated that 24.4 percent of the open access minor nearshore rockfish allocation south of 40 o10′ N. lat. fishery had been taken through February 2001. To slow the pace of the fishery and to ensure an open season in late fall when the markets are most desirable, the Council recommended reducing the cumulative limits. The 2-month cumulative limit for the fishery south of 34o 27′ N. lat. was previously announced as 1,800 lb (816 kg) for the March to December period. This limit will be reduced to 1,200 lb (544 kg) per 2 months. The 2-month cumulative limit for the fishery occurring between 40°10′ N. lat. and 34o 27′ N. lat. was previously announced as 1,800 lb (816 kg) shoreward of the 20 fathom depth contour for the May to June period. This limit will be reduced to 1,200 lb (544 kg) per 2 months shoreward of the 20 fathom depth contour for the May to June period; otherwise, this area is closed to nearshore rockfish until July 1, 2001. For the July to December period, the 2–month cumulative limit for the fishery occurring south of 40°10′ N. lat. will be reduced from the previously announced 1,800 lb (816 kg) to 1,200 lb (544 kg).

Open Access for Yellowtail Rockfish Taken With Salmon Troll Gear North of 40°10′ N. Lat.

During the April Council meeting, Washington State salmon troll fishers requested that the Council consider increased monthly limits for yellowtail rockfish taken in the open access fishery north of 40°10′ N. lat. by vessels fishing for salmon with troll gear. Yellowtail rockfish is believed to be at 63 percent

of its unfished biomass, and is therefore considered to be a healthy stock. Management measures aimed at protecting canary rockfish, which are often caught in association with yellowtail rockfish, have reduced the catch opportunity for yellowtail rockfish. Therefore, a portion of the yellowtail rockfish allocation is expected to be unharvested during the 2001 fishing year, as was the case in 2000.

The open access 1–month cumulative limit for yellowtail rockfish north is 100 lb (45 kg) for the January to December period. Analysis of landings data from 1997 to 1999, when yellowtail rockfish trip limits were higher, shows that an average of 50–75 lb (22.08–35.02 kg) per trip of yellowtail rockfish were landed by salmon troll vessels. Although the vast majority of deliveries contained no yellowtail rockfish, many individual trips contained more than 100 lb (45 kg). Correlations between yellowtail and canary rockfish were also examined, and it was found that there was not a particularly strong correlation between the two species when taken with salmon troll gear.

To allow the open access yellowtail rockfish allocation to be fully utilized while still protecting canary rockfish, the Council recommended that a monthly cumulative limit of 300 lb (136 kg) be established specifically for the salmon troll fishery. If a vessel fishes with more than one open access gear type, then this limit cannot be added to the general 100 lb (45 kg) per month open access limit. The Council believes that allowing existing yellowtail bycatch taken with salmon troll gear to b+e landed will not provide an additional incentive for salmon trollers to target yellowtail rockfish, thereby placing canary rockfish at a greater risk.

To prevent individuals who do not routinely catch much yellowtail rockfish with salmon from making trips to specifically target on yellowtail, vessels would be restricted from landing yellowtail (round weight) in amounts greater than one half the weight of the salmon (dressed weight) being landed.

Corrections to Lingcod and Boccacio Specifications

The 2001 fishery specifications and management measures for the Pacific Coast groundfish FMP were published in the **Federal Register** on January 11, 2001 (66 FR 2338). The specifications contained errors in the assumed discard rates for lingcod and boccacio that require correction. At the November 2000 Council meeting, the open access and limited entry landed catch targets for lingcod and boccacio that were presented to the Council did not include the discard deductions. The Council recommended that the oversight be corrected. A 16–percent discard adjustment will be made for boccacio and a 20–percent discard adjustment will be made for lingcod.

Corrections

In the annual specification and management measures published in the **Federal Register** at 66 FR 2338 (January 11, 2001), make the following corrections:

1. On page 2343, Table 1a, in footnote b/, the last sentence is corrected to read as follows: ''The assumed discard rate in the limited entry fishery is 20 percent, resulting in a limited entry landed catch target of 163 mt. The open access landed catch target remains at 48 mt.''

2. On page 2345, Table 1a, in footnote n/ the last sentence is corrected to read as follows: ''The assumed discard rate is 16 percent, resulting in a limited entry landed catch target of 24 mt and an open access landed catch target of 19 mt.''

NMFS Actions

For the reasons stated here, NMFS concurs with the Council's recommendations and announces the following changes to the 2001 annual management measures (66 FR 2338, January 11, 2001, as amended at 66 FR 10211 February 14, 2001, and at 66 FR 18409 April 9, 2001) to read as follows:

1. In Section IV, under B. *Limited Entry Fishery* Tables 3 and 4 are revised; in Section IV, under C. *Trip Limits in the Open Access Fishery*, Table 5 is revised; and in Section IV, under C. paragraph(5) is revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

* * * * *

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Table 3. 2001 Trip Limits [1/] and Gear Requirements [2/] for Limited Entry Trawl Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
3	South	14,000 lb/ 2 months		14,000 lb/ 2 months			14,000 lb/ 2 months
4	**Splitnose - South**	8,500 lb/ 2months		14,000 lb/ 2 months			4,000 lb/ 2 months
5	**Pacific ocean perch[6/]**	1,500 lb/ month		2,500 lb/ month			1,500 lb/ month
6	**DTS complex - North**						
7	Sablefish	5,000 lb/ 2 months		14,000 lb/ 2 months			5,000 lb/ 2 months
8	Longspine thornyhead	6,000 lb/ 2 months		6,000 lb/ 2 months			6,000 lb/ 2 months
9	Shortspine thornyhead	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
10	Dover sole	65,000 lb/ 2 months		20,000 lb/ 2 months			20,000 lb/ 2 months
11	**DTS complex - South**						
12	Sablefish	8,000 lb/ 2 months		11,000 lb/ 2 months			8,000 lb/ 2 months
13	Longspine thornyhead	6,000 lb/ 2 months		6,000 lb/ 2 months			6,000 lb/ 2 months
14	Shortspine thornyhead	1,500 lb/ 2 months		1,500 lb/ 2 months			1,500 lb/ 2 months
15	Dover sole	35,000 lb/ 2 months		35,000 lb/ 2 months			35,000 lb/ 2 months
16	**Flatfish - North**						
17	Arrowtooth flounder	20,000 lb/ trip		Small footrope: May and June 50,000 lb/ month for all flatfish except Dover sole of which no more than 15,000 lb may be petrale sole and 10,000 lb may be arrowtooth; July to October 30,000 lb/ month for all flatfish except Dover sole. Large footrope: arrowtooth, 15,000 lb/trip for May and 5,000 lb/trip for June to October; petrale sole, prohibited; rex sole, included in all other flatfish; all other flatfish, 1,000 lb/ trip.			20,000 lb/ trip
18	Petrale sole	No restriction					No restriction
19	Rex sole	No limit					No limit
20	All other flatfish [3/]	small footrope, no limit; large footrope, 1,000 lb/ trip					small footrope, no limit; large footrope, 1,000 lb/ trip
21	**Flatfish - South**						
22	Arrowtooth flounder	20,000 lb/ trip		small footrope, no limit; large footrope, 5,000 lb/ trip			20,000 lb/ trip
23	Petrale sole	No restriction		No limit (small footrope required)			No restriction
24	Rex sole	No limit					
25	All other flatfish [3/]	small footrope, no limit; large footrope, 1,000 lb/ trip					
26	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
27	**Use of small footrope bottom trawl[5/] or midwater trawl required for landing all of the following species:**						
28	**Minor shelf rockfish**						
29	North	300 lb/ month		1,000 lb/ month			300 lb/ month
30	South	500 lb/ month		1,000 lb/ month			500 lb/ month
31	**Canary rockfish**	100 lb/ month		300 lb/ month			100 lb/ month
32	**Widow rockfish**						
33	mid-water trawl	20,000 lb/ 2 months		10,000 lb/ 2 months		20,000 lb/ 2 months	10,000 lb/ 2 months
34	small footrope trawl	1,000 lb/ month					
35	**Yellowtail - North[6/]**						
36	mid-water trawl	30,000 lb/ 2 months		15,000 lb/ 2 months			20,000 lb/ 2 months
37	small footrope trawl	Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/ trip and 30,000 lb/ 2 months.		Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 7,500 lb/ trip and not to exceed 15,000 lb/ 2 months.			Without flatfish, 1,500 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 2,500 lb/ trip and 20,000 lb/ 2 months
38	**Bocaccio - South[6/]**	300 lb/ month		500 lb/ month			300 lb/ month
39	**Chilipepper - South[6/]**						
40	mid-water trawl	25,000 lb/ 2 months					
41	small footrope trawl	7,500 lb/ 2 months					
42	**Cowcod**	**Retention is Prohibited**					
43	**Minor nearshore rockfish**						
44	North	200 lb/ month					
45	South	200 lb/ month					
46	**Lingcod[7/]**	No retention		400 lb/ month			No retention

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained at paragraph IV.A.(14)

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with a trip limit.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)(c). The 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See paragraph IV.A. (14).

6/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).

7/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. 2001 Trip Limits[1/] for Limited Entry Fixed Gear
Read Section IV.A. NMFS Actions before using this table.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG SEP-OCT	NOV-DEC
1	**Minor slope rockfish**					
2	North	1,500 lb/ 2 months		1,500 lb/ 2 months		1,500 lb/ 2 months
3	South	14,000 lb/ 2 months		14,000 lb/ 2 months		14,000 lb/ 2 months
4	**Splitnose - South**	8,500 lb/ 2months		14,000 lb/ 2 months		4,000 lb/ 2 months
5	**Pacific ocean perch 5/**	1,500 lb/ month		2,500 lb/ month		1,500 lb/ month
6	**Sablefish**					
7	North of 36° N. lat.	300 lb/ day, 2,700 lb/ 2 months				
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb				
9	**Longspine thornyhead**	6,000 lb/ 2 months		6,000 lb/ 2 months		6,000 lb/ 2 months
10	**Shortspine thornyhead**	1,500 lb/ 2 months		1,500 lb/ 2 months		1,500 lb/ 2 months
11	**Dover sole**					
12	North	65,000 lb/ 2 months		20,000 lb/ 2 months		20,000 lb/ 2 months
13	South	35,000 lb/ 2 months		35,000 lb/ 2 months		35,000 lb/ 2 months
14	**Flatfish - North**					
15	Arrowtooth flounder	20,000 lb/ trip		30,000 lb/ month for all flatfish except Dover sole		20,000 lb/ trip
16	Petrale sole	No restriction				No restriction
17	Rex sole	No limit				No limit
18	All other flatfish 2/	No limit				No limit
19	**Flatfish - South**					
20	Arrowtooth flounder	20,000 lb/ trip		No limit		20,000 lb/ trip
21	Petrale sole	No limit				
22	Rex sole	No limit				
23	All other flatfish 2/	No limit				
24	**Whiting 3/**	20,000 lb/ trip		Primary Season		20,000 lb/ trip
25	**Minor shelf rockfish**					
26	North	300 lb/ month		1,000 lb/ month		300 lb/ month
27	South					
28	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED 4/		1,000 lb/ month	500 lb/ month
29	South of 34°27' N. lat.	CLOSED 4/	500 lb/ month			
30	**Canary rockfish**					
31	North	100 lb/ month		300 lb/ month		100 lb/ month
32	South					
33	40°10' - 34°27' N. lat.	100 lb/ month	CLOSED 4/		300 lb/ month	100 lb/ month
34	South of 34°27' N. lat.	CLOSED 4/	100 lb/ month			
35	**Widow rockfish**					
36	North	3,000 lb/ month				
37	South					
38	40°10' - 34°27' N. lat.	3,000 lb/ month	CLOSED 4/		3,000 lb/ month	
39	South of 34°27' N. lat.	CLOSED 4/	3,000 lb/ month			
40	**Yellowtail - North 5/**	1,500 lb/ month				
41	**Bocaccio - South 5/**					
42	40°10' - 34°27' N. lat.	300 lb/ month	CLOSED 4/		500 lb/ month	300 lb/ month
43	South of 34°27' N. lat.	CLOSED 4/	300 lb/ month			
44	**Chilipepper - South 5/**					
45	40°10' - 34°27' N. lat.	2,500 lb/ month	CLOSED 4/		2,500 lb/ month	
46	South of 34°27' N. lat.	CLOSED 4/	2,500 lb/ month			
47	**Cowcod**	**CLOSED 4/ -- All Retention is Prohibited**				
48	**Minor nearshore rockfish**					
49	North	10,000 lb/ 2 months, no more than 4,000 lb of which may be species other than black or blue rockfish 6/		7,000 lb/ 2 months, no more than 4,000 lb of which may be species other than black or blue rockfish 6/		
50	South					
51	40°10' - 34°27' N. lat.	2,000 lb/ 2 months	CLOSED 4/	Shoreward of 20 ftm depth: 2,000 lb/ 2 months, otherwise CLOSED 4/	2,000 lb/ 2 months	
52	South of 34°27' N. lat.	Shoreward of 20 ftm depth: 2,000 lb/ 2 months, otherwise CLOSED 4/	2,000 lb/ 2 months			
53	**Lingcod 7/**					
54	North	CLOSED 4/		400 lb/ month		CLOSED 4/
55	South					
56	40°10' - 34°27' N. lat.	CLOSED 4/			400 lb/ month	CLOSED 4/
57	South of 34°27' N. lat.	CLOSED 4/		400 lb/ month		CLOSED 4/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with a trip limit.

3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. See IV.B.(3)(c).

4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

5/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).

6/ The "per trip" limit for black rockfish off Washington also applies. See paragraph IV.B.(4).

7/ The size limit for lingcod is 24 inches (61 cm) in the north, and 26 inches (66 cm) in the south, total length

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

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C. Trip limits in the Open Access Fishery

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Table 5. 2001 Trip Limits[1/] for Open Access Gears
Read Section IV.A. NMFS Actions before using this table.
Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG SEP-OCT	NOV-DEC
1	**Minor slope rockfish**					
2	North	500 lb/ 2 months				
3	South	5,000 lb/ 2 months				
4	**Splitnose - South**	200 lb/ month				
5	**Pacific ocean perch 4/**	100 lb/ month				
6	**Sablefish**					
7	North of 36° N. lat.	300 lb/ day, 2,700 lb/ 2 months				
8	South of 36° N. lat.	350 lb/ day				
9	**Thornyheads (longspine and shortspine combined)**					
10	North of 34°27' N. lat.	CLOSED 3/ -- Retention is Prohibited				
11	South of 34°27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months				
12	**Arrowtooth**	200 lb/ month				
13	**Dover sole**	(included in "other" flatfish limit)				
14	**Petrale sole**	(included in "other" flatfish limit)				
15	**Nearshore flatfish**	(included in "other" flatfish limit)				
16	**"Other" flatfish 2/**	300 lb/ month				
17	**Whiting**	300 lb/ month				
18	**Minor shelf rockfish**					
19	North	100 lb/ month				
20	South					
21	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 3/		200 lb/ month	
22	South of 34°27' N. lat.	CLOSED 3/	200 lb/ month			
23	**Canary rockfish**					
24	North	50 lb/ month				
25	South					
26	40°10' - 34°27' N. lat.	50 lb/ month	CLOSED 3/		50 lb/ month	
27	South of 34°27' N. lat.	CLOSED 3/	50 lb/ month			
28	**Widow rockfish**					
29	North	3,000 lb/ month				
30	South					
31	40°10' - 34°27' N. lat.	3,000 lb/ month	CLOSED 3/		3,000 lb/month	
32	South of 34°27' N. lat.	CLOSED 3/	3,000 lb/ month			
33	**Yellowtail - North 4/ 8/**	100 lb/ month				
34	**Bocaccio - South 4/**					
35	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 3/		200 lb/ month	
36	South of 34°27' N. lat.	CLOSED 3/	200 lb/ month			
37	**Chilipepper - South 4/**					
38	40°10' - 34°27' N. lat.	2,500 lb/ month	CLOSED 3/		2,500 lb/ month	
39	South of 34°27' N. lat.	CLOSED 3/	2,500 lb/ month			
40	**Cowcod**	**Closed 3/ -- Retention is Prohibited**				
41	**Minor nearshore rockfish**					
42	North 6/	3,000 lb/ 2 months, no more than 900 lb of which may be species other than black or blue rockfish 5/		7,000 lb/ 2 months, no more than 900 lb of which may be species other than black or blue rockfish 5/		
43	South					
44	40°10' - 34°27' N. lat.	1,800 lb/ 2 months	CLOSED 3/	Shoreward of 20 ftm depth: 1,200 lb/ 2 months, otherwise CLOSED 3/	1,200 lb/ 2 months	
45	South of 34°27' N. lat.	Shoreward of 20 ftm depth: 1,800 lb/ 2 months, otherwise CLOSED 3/	1,800 lb/ 2 months	1,200 lb/ 2 months		
46	**Lingcod 7/**					
47	North	CLOSED 3/		400 lb/ month		CLOSED 3/
48	South					
49	40°10' - 34°27' N. lat.	CLOSED 3/			400 lb/ month	CLOSED 3/
50	South of 34°27' N. lat.	CLOSED 3/		400 lb/ month		CLOSED 3/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N lat to the U.S. - Canada border "South" means 40°10' N lat to the U.S.-Mexico border. 40°10' N lat is about 20 nm south of Cape Mendocino, CA.
2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with a trip limit.
3/ Closed means that it is prohibited to take, retain, possess, or land the designated species in the time or area indicated. (See IV.A. (7).)
4/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area (Table 2).
5/ The "per trip" limit for black rockfish off Washington also applies. See paragraph IV.B.(4).
6/ See IV.C.(4) for limits specific to Pacific City, Oregon.
7/ The size limit for lingcod is 24 inches (61 cm) in the north, and 26 inches (66 cm) in the south, total length.
8/ See IV.C.(5) for limits specific to the salmon troll fishery.

* * * * *

(5) *Groundfish taken with troll gear by vessels engaged in fishing for salmon north of 40° 10′ N. lat.*(a) The cumulative limit for yellowtail rockfish in the open access fishery is 100 lb (45 kg) per month. If a vessel has reached its 100 lb (45 kg) yellowtail cumulative limit, up to 200 lb (91 kg) per month of additional yellowtail rockfish may be taken and retained, possessed or landed, providing the following conditions are met: in any trip in which salmon troll gear, as defined at 50 CFR 660.402, is used to take and land yellowtail rockfish and, no more than one lb (.45 kg) of yellowtail rockfish (round weight) is landed for every two lbs (.91 kg) of salmon landed (dressed weight). Dressed weight for purposes of this paragraph is the weight of salmon that is recorded on the State fish ticket and is salmon with the entrails removed, from which the head and gills may or may not have been removed.

(b) The trip limits in Table 5 apply to all other groundfish taken with troll gear by vessels fishing for salmon.

* * * * *

Classification

These actions are authorized by the regulations implementing the FMP and the annual specifications and management measures published at 66 FR 2369 (January 11, 2001) and are based on the most recent data available.

NMFS finds good cause to waive the requirement to provide prior notice and comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be impracticable. It would be impracticable because the cumulative limit period begins on May 1, 2001, and affording additional notice and opportunity for public comment would impede the due and timely execution of the agency's function of managing fisheries to achieve OY. Increases to trip limits relieve burdens on the public and decreases to trip limits must be implemented in a timely manner to stretch the season as long as possible through the year. In addition, the affected public had the opportunity to comment on these actions at the April 2–6, 2001 Council meeting. This action should be implemented before the beginning of the cumulative trip limit period to avoid confusion and to provide fishers the opportunity to achieve the trip limits. For these reasons, good cause also exists to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

These actions are taken under the authority of 50 CFR 660.323(b)(1), and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 30, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–11297 Filed 5–1–01; 4:48 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319071–1103–02; I.D. 030101H]

RIN 0648–AN71

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; 2001 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; final specifications.

SUMMARY: NMFS issues final specifications for the 2001 spiny dogfish fishery (May 1, 2001, through April 30, 2002). This final rule establishes a commercial quota and possession limits for the 2001 fishing year to address overfishing of the spiny dogfish resource. In addition, the current trip limits are modified to be possession limits, specified as the maximum amount allowed to be landed within any one 24-hour period (per-calendar-day possession limit). The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Spiny Dogfish Fishery (FMP), which require NMFS to impose measures for each upcoming fishing year that will prevent overfishing of this fishery.

DATES: The 2001 annual commercial quota is effective from May 1, 2001, to April 30, 2002. The amendments to §§ 648.14(aa)(7), 648.230(d)(1), 648.235(a), and 648.235(b) are effective May 1, 2001.

ADDRESSES: Copies of supporting documents used by the Spiny Dogfish Monitoring Committee (Monitoring Committee), the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA is also accessible via the Internet at http:/www.nero.gov/ro/doc/nr.htm.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978)281–9279, fax (978)281–9135, e-mail rick.a.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published in the **Federal Register** on March 30, 2001, (66 FR 17391). The comment period closed on April 14, 2001.

Background

The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) (Councils). The implementing regulations for the FMP are found at 50 CFR part 648, subpart L.

Pursuant to 50 CFR 648.230, the Administrator, Northeast Region, NMFS (Regional Administrator), imposes measures for each fishing year designed to ensure that the target fishing mortality rate (F) for the fishing year, as specified in the FMP, is not exceeded. The target F for fishing year 2001 and the management measures (i.e., semi-annual commercial quota and possession limits) for that year are summarized here. Detailed background information regarding the development of the specifications for the 2001 spiny dogfish fishing year was provided in the preamble to the proposed specifications (66 FR 17391, March 30, 2001) and is not repeated here.

Annual Commercial Quota

The FMP specifies a target F of 0.03 for 2001, to be attained through a commercial quota and possibly other management measures. This final rule establishes a 2001 fishing year commercial quota of 4 million lb (1.81 million kg), allocated on a semi-annual basis as follows: Quota Period 1 (May 1-October 31) is allocated 57.9 percent of the 4-million lb (1.81-million kg) quota, or 2,316,000 lb (1,050,512 kg); Quota Period 2 (November 1-April 30) is allocated 42.1 percent of the 4-million lb (1.81-million kg) quota, or 1,684,000 lb (763,849 kg). This commercial quota was recommended by the Spiny Dogfish Monitoring Committee (Monitoring Committee) to achieve the target F of 0.03, as required in the FMP for the 2001 fishing year. Although the Monitoring Committee and the Councils also recommended that an additional 500,000 lb (226,796 kg) be allocated for experimental fishing projects, the FMP and its implementing regulations do not contain a provision to allow for the allocation of such a set-aside quota for

experimental fishing projects. It was only through interim action by the Secretary of Commerce that such a provision was possible for the 2000 fishing year. Therefore, an additional quota set-aside for experimental fishing projects for 2001 is not contained in this final rule.

Possession Limits

The Councils differed in their possession limit recommendations. During the rebuilding period, the objective of the FMP is to rebuild the mature female component of the spiny dogfish stock to prevent possible recruitment failure. This portion of the stock, which is the primary spawning biomass of the stock, has traditionally been targeted by the directed spiny dogfish fishery and, consequently, is most in need of protection and rebuilding. In order to discourage directed fishing for spiny dogfish and to allow dogfish caught incidentally in other fisheries to be landed for the entire quota period, the MAFMC recommended per-calendar-day possession limits of 600 lb (272 kg) for Quota Period 1, and 300 lb (136 kg) for Quota Period 2. The NEFMC, however, recommended a per-calendar-day possession limit of 5,000 lb (2,268 kg) for both quota periods.

A possession limit of 5,000 lb (2,268 kg) could facilitate a directed fishery for spiny dogfish. NMFS believes that a directed fishery is not advisable because that fishery has traditionally targeted mature females, due to their larger size and higher value. The primary objective of the FMP is to rebuild the mature female component of the population. In fact, both the disapproved rebuilding target recommended by the Councils and the rebuilding target supported by the Spiny Dogfish Technical Committee are based upon attaining a specified level of abundance of adult female spiny dogfish. To establish possession limits through these specifications at levels that facilitate a directed fishery on adult female spiny dogfish would be counterproductive. Therefore, this final rule establishes per-calendar-day possession limits of 600 lb (272 kg) and 300 lb (136 kg) for Quota Period 1 and Quota Period 2, respectively, to allow for the retention of spiny dogfish caught incidentally in fisheries for other species throughout the entire fishing year, and to provide protection for adult female spiny dogfish.

This final rule also changes the current landing limits. The landing limits are changed to be the maximum amount of spiny dogfish that may be possessed on board and landed in any 1 calendar day. The intent of this change is to enhance at-sea enforcement and to prohibit multiple landings of spiny dogfish in any 1 day. This change is consistent with recent changes in the landing limits for several other Mid-Atlantic fisheries (Loligo squid, scup, and black sea bass).

Comments and Responses

Two comment letters were submitted to NMFS during the comment period for the proposed rule. One was submitted on behalf of a commercial fishing industry association and the other on behalf of two conservation organizations. These letters addressed two main points: The level of the commercial quota, and the 500,000-lb (2,268-kg) quota set-aside for experimental fisheries.

NMFS considered all comments received during the comment period in making its decision regarding the final specifications and summarizes and responds to these comments here.

Comment 1: One commenter stated that the level of the proposed commercial quota was too low because it was based upon a fishing mortality rate target (F=0.03) that is intended to achieve what the commenter believes to be an inappropriate biomass rebuilding target. The commenter stated that the current biomass rebuilding target is incorrect and that NMFS has rejected other more flexible alternatives proposed by the Councils (167,000 mt in 2000; 180,000 mt in 1999). Further, the commenter believes that achievement of the rebuilding target in the FMP will ultimately result in a record high total level of abundance of spiny dogfish.

Response: The quota of 4.0 million lb (1.81 million kg) will achieve F=0.03 for the 2001 fishing year, as required by the FMP, and as recommended by the Monitoring Committee. A higher quota would be inconsistent with the FMP's approved rebuilding strategy and, therefore, cannot be implemented by NMFS.

Although the rebuilding strategy contained in the FMP has been approved, the FMP does not currently have an approved biomass rebuilding target. An adult female biomass rebuilding target of 200,000 mt (SSBmax) was determined by the Council's Joint Scientific and Statistical Committee on January 19, 1999, to be the most appropriate value for Bmsy (the biomass that achieves maximum sustainable yield), based on current information. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires rebuilding of overfished stocks to a level that will achieve maximum sustainable yield, based upon the best available information. Therefore, NMFS could not approve the adult female biomass rebuilding target of 180,000 mt that was recommended in the original submission of the FMP by the Councils. The Councils must, in the near future, develop an amendment to the FMP to establish an acceptable biomass rebuilding target for spiny dogfish. Some technical work has been done to advance the discussion of this issue. With regard to the commenter's assertion that the Agency rejected an adult female biomass rebuilding target of 167,000 mt, the Council has not submitted such a recommendation to the agency. The 167,000-mt biomass rebuilding target was considered by the Spiny Dogfish Technical Committee as an adjusted figure that could reflect a hypothesized increase in the area covered by the NEFSC survey trawl, as described at the March 6, 2000, meeting of the Spiny Dogfish Technical Committee. However, the Councils have not yet determined if or how they will utilize this information. As a result, no new additional alternatives have been recommended for further action.

NMFS noted in the final rule that implemented the FMP (65 FR 1557, January 11, 2000) that it considered fully the concern that a 200,000-mt adult female biomass rebuilding target would result in a historically high total level of abundance of spiny dogfish (see Comment 22). In summary, the current spiny dogfish age structure has been seriously distorted by the selective removal of mature females by the fishery. The management measures in the FMP, including the commercial quota, reduce fishing mortality rates to allow the total population to return to equilibrium at a lower level of abundance than that observed in 1999. The preliminary projections in the FMP indicated that the total long-term biomass of a sustainable dogfish fishery would be about 416,000 mt, which is lower than the total 1999 biomass of 515,513 mt.

Comment 2: One commenter supported a commercial quota of no more than 4 million lb (1.81 million kg), but asserted that a 3-million lb (1.36 million kg) quota would be more appropriate, given the scientific advice and rebuilding strategy outlined in the FMP.

Response: The quota of 4.0 million lb (1.81 million kg) that NMFS is establishing through these final specifications is consistent with the objective to achieve F=0.03 for the 2001 fishing year, as required by the FMP, and as recommended by the Monitoring Committee. The Monitoring Committee initially calculated the yield projection

at F=0.03 for 2001 to be about 3.5 million lb (1.59 million kg) using a mean estimated population size. After considering the uncertainty and variability in the population estimates for spiny dogfish that were previously described in the interim final rule (65 FR 25887, May 4, 2000), the Monitoring Committee recommended a commercial quota of 4 million lb (1.81 million kg).

Comment 3: One commenter urged NMFS to establish a 500,000-lb (2,268-kg) quota set-aside for experimental fishing projects. The commenter indicated that a failure to do so would delay the collection of additional management and scientific information and delay efforts by the fishing industry to devise gear and fishing modifications to harvest male spiny dogfish exclusively.

Another commenter opposed the establishment of a quota set-aside for experimental projects. The commenter mentioned that no projects were submitted during the 2000 fishing year, so justification for the additional allocation this year is lacking. The commenter wrote that any quota set-aside should be deducted from the overall 4-million lb (1.81 million kg) commercial quota.

Response: Although no proposals were received in 2000 when the provision was included as part of the interim rule, industry members have expressed some interest in investigating alternative fishing methods for male-only dogfish fisheries. A limited experimental fishery was conducted for this purpose in North Carolina state waters. Both Councils proposed that NMFS should allow for a set-aside quota for 2001 and they analyzed the set-aside quota in their submission. However, there is currently no provision in the FMP to allow the establishment of a set-aside quota. The set-aside quota could be implemented through an amendment to the FMP if the Councils decide to pursue this measure.

Changes From the Proposed Rule

The final rule contains a provision not contained in the proposed rule. The final rule revises § 648.230(d)(1) to correct a one-day error in the length of the first allocation period to extend it through October 31 rather than through October 30.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This action establishes annual quotas and related management measures for the spiny dogfish fishery, which are used to control the harvest of spiny dogfish and to restrict landings when quotas are attained. This action must be taken immediately upon the start of the 2001 fishing year on May 1, 2001, to conserve this resource. It would be impracticable to delay implementation of the quota provisions, because doing so would prevent NMFS from carrying out its mandate to prevent overfishing of the spiny dogfish resource. Therefore, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the implementation of the 2001 spiny dogfish quotas and related management measures, including the possession limit restrictions, which are needed to enforce effectively the possession limits. With respect to the change to § 648.230(d)(1), which merely corrects a one-day error in the length of the first allocation period, a delay in effective date is unnecessary given that the one-day extension occurs six months from May 1.

NMFS and the MAFMC prepared a FRFA for this action. A copy of the FRFA is available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed specifications included a detailed summary of the analyses contained in the IRFA, which is not repeated here. A summary of the FRFA focusing upon the impacts of the final measures follows:

A description of the reasons why this action is being taken by the agency and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule. This action does not contain any collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules. There are no compliance costs associated with this final rule.

Public Comments

There were no comments received in reference to the Initial Regulatory Flexibility Analysis (IRFA) description of the expected impacts of the proposed regulations on small entities.

Number of Small Entities

These measures potentially impact a total of 596 vessels that reported (based on vessel trip report data) spiny dogfish landings to NMFS in 1999. However, any of the 2,759 vessels that obtained Federal spiny dogfish permits could potentially be affected by the proposed measures. Data for individual vessels were not available from the 2000 fishing year at the time of analysis.

Minimizing Significant Economic Impact on Small Entities

In the IRFA, NMFS analyzed three alternatives. The MAFMC alternative (Alternative 1) included a commercial quota of 4 million lb (1,814 mt); possession limits of 600 lb (272 kg) during Quota Period 1 and 300 lb (136 kg) during Quota Period 2; and a 500,000-lb (2,268-kg) experimental fishery quota. The NEFMC alternative (Alternative 2) included a commercial quota of 4 million lb (1,814 mt); a possession limit of 5,000 lb (2,268 kg) for both quota periods; and a 500,000-lb (2,268-kg) experimental quota. Alternative 3 was no management action.

In this final rule, NMFS is implementing Alternative 1, without the 500,000-lb (2,268-kg) experimental quota set-aside. This final rule also modifies the trip limits to be possession limits, with the additional provision that these levels are the maximum amount that may be landed in any single calendar day. Although the spiny dogfish quota set-aside of 500,000 lb (2,268 kg) for experimental fisheries was analyzed under the three alternatives in the IRFA by the Councils, there is no authority under the FMP to make such an allocation.

The modification of the trip limits to possession limits and the requirement that these levels be set at the maximum amount that may be landed in 1 calendar day will enhance at-sea enforcement by prohibiting possession of spiny dogfish on board a vessel in excess of the specified levels, rather than simply prohibiting landings in excess of the specified levels. Prohibiting multiple landings of spiny dogfish in 1 day will prevent vessels from landing excessive amounts when spiny dogfish are in nearshore areas. These changes are necessary to adhere to the original intent of the trip limits and to ensure that the conservation objectives of the management measures are not compromised. They are not expected to result in any significant economic impacts or differential impacts on small entities. Such measures should provide fair and equal access of vessels to the spiny dogfish quota.

The measures implemented by this final rule are intended to minimize economic impacts on small entities while achieving the conservation goals and objectives of the FMP and the Magnuson-Stevens Act. The potential change in overall revenues under the 4-million lb (1,814-mt) quota was evaluated relative to landings and revenues derived during the 2000

fishing year (6.7 million lb (3,039 mt) of landings, valued at $1,072 million). The analysis assumed that the revenues of the 596 vessels that landed spiny dogfish in 1999 would be reduced proportionately by the measures to be implemented by this final rule for the 2001 fishing year. The reduction in overall gross revenues to vessels was estimated to be about $432,000, or about $725 per vessel, compared to the 2000 fishing year. Of the 596 vessels, 36 would be expected to experience a reduction in total gross revenues (all species combined) of more than 5 percent as a result of the 2.7-million lb (1,224-mt) reduction from actual 2000 fishing year landings. This represents 6 percent of the vessels that landed spiny dogfish in 1999. The remaining 560 vessels would be expected to experience a reduction in total gross revenues of less than 5 percent. Although revenues would increase in the short-term without a commercial quota (status-quo, no-action alternative) as compared to year 2000 spiny dogfish landings, long-term revenues from an unregulated fishery would continuously decline as the stock size is further reduced, due to continued overfishing.

Under the possession limits implemented through this final rule, it is projected that landings in Quota Period 1 may reach the semi-annual quota allocation (2,316,000 lb (1,050 mt)) before the close of Quota Period 1 on about July 24, 2001 (128 days into the quota period) and that landings during Quota Period 2 would not achieve the full semi-annual quota allocation (1,684,000 lb (764 mt)) by the end of Quota Period 2 on April 30, 2002. Therefore, landings for the entire 2001 fishing year are projected to reach only 2,930,663 lb (1,329 mt) of the entire 4-million lb (1,814-mt) annual quota. This translates to a reduction in spiny dogfish trips of 21 percent for Quota Period 1 and no reduction in the amount of trips for Quota Period 2. The analysis assumed that trips would be eliminated to the extent that the possession limits on spiny dogfish make those trips unprofitable. However, the analysis did not account for behavioral changes by vessel operators, which could impact the amount of landings. These changes could not be analyzed. Also, since vessels without Federal permits (i.e., state-permitted vessels) are not captured in the analysis, additional landings are likely to occur.

The possession limits implemented by this final rule were preferable to the status quo alternative (no possession limits) and the possession limit recommendation under Alternative 2 (5,000 lb (2,268 kg) for both quota periods) because they achieve conservation benefits consistent with the objectives of the FMP and with the Magnuson-Stevens Act, and provide economic relief to small entities by allowing landings of incidentally caught spiny dogfish for the entire fishing year, thereby possibly reducing discards. The other two alternatives did not achieve the conservation objectives of the FMP and the Magnuson-Stevens Act, or, in the case of Alternative 2, would encourage a short, derby-style fishery lasting approximately 41 days per quota period, after which all landings of spiny dogfish would be prohibited.

The impact of the final specifications for the 2001 fishing year will be greatest in Massachusetts, North Carolina, Maryland, Maine, and New Jersey, which accounted cumulatively for 90 percent of spiny dogfish landings from 1988 through 1997. The communities of Wachapreague, VA, Plymouth, MA, and Scituate, MA, have benefitted from dogfish landings that made up 76 percent, 74 percent, and 21 percent, respectively, of the value of all landed fish, based on 1997 NMFS landings data. Because these communities have recently derived a relatively high percentage of their fishing income from spiny dogfish, they will be most impacted by the commercial quota and possession limits in the final specifications. These impacts were also experienced in the 2000 fishing year. Two of these communities, Plymouth and Scituate, MA, are suburban areas of a large city (Boston) and are substantially engaged in the businesses of the metropolitan area. The other community, Wachapreague, VA, has significant fishing activities, but also attracts retirees and tourism, and is substantially dependent on these two sectors for economic activity. The analysis also concludes that small vessels (25 to 49 ft (7.6 to 14.9 m)) constitute 91 percent of affected vessels (those vessels experiencing a reduction in revenues of greater than 5 percent) under a 4-million lb (1,814-mt) commercial quota. However, if no action is taken, communities benefitting from dogfish landings would experience greater lost revenues in the long term due to stock collapse as a result of allowing a directed fishery in the short term.

A formal section 7 consultation under the Endangered Species Act (ESA) was reinitiated for the FMP by NMFS on May 4, 2000, as a result of recent entanglements of endangered and threatened marine mammals and sea turtles to determine whether this fishery jeopardizes ESA-listed species. In a biological opinion dated August 13, 1999, the Assistant Administrator for Fisheries, NOAA, determined that fishing activities conducted under the FMP and its implementing regulations may adversely affect but are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of right whale critical habitat. For endangered whales, this conclusion assumed the Atlantic Large Whale Take Reduction Plan, as implemented, would be effective at reducing incidental mortality and serious injury of the whales to insignificant levels approaching zero mortality and serious injury rate.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 30, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraph (aa)(7) is added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(aa) * * *

(7) Possess more than the possessi/on limit of spiny dogfish specified under § 648.235. The possession limit is the maximum amount that may be landed in any 1 calendar day.

* * * * *

3. In § 648.230, paragraph (d)(1) is revised to read as follows:

§ 648.230 Catch quotas and other restrictions.

* * * * *

(d) * * *

(1) The annual quota specified according to the process outlined in paragraph (a) of this section shall be allocated between two semi-annual quota periods as follows: May 1 through October 31 (57.9 percent) and November 1 through April 30 (42.1 percent).

* * * * *

4. Section 648.235 is added to read as follows:

§ 648.235 Possession and landing restrictions.

(a) *Quota Period 1*. From May through October 31, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess up to 600 lb (272 kg) of spiny dogfish per trip; and

(2) Land only one trip of spiny dogfish per calendar day.

(b) *Quota Period 2*. From November 1 through April 30, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess up to 300 lb (136 kg) of spiny dogfish per trip; and

(2) Land only one trip of spiny dogfish per calendar day.

[FR Doc. 01–11160 Filed 4–30–01; 4:55 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 87
Friday, May 4, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–374–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 series airplanes. This proposal would require a one-time inspection of the space between the fuel quantity indication (FQI) probes and any adjacent structures for minimum clearance, and corrective action, if necessary. This action is necessary to prevent the possibility of electrical arcing to the fuel tank if the airplane should be struck by lightning. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–374–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–374–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–374–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–374–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 series airplanes. The DGAC advises that, in order to ensure adequate protection in the event of lightning strikes, the manufacturer carried out investigations of the clearances between the fuel quantity indication (FQI) probes and any adjacent structures or metallic components in the left or right wing fuel tanks which could create a path of electrical conductivity to the fuel tanks. The investigation was carried out on 10 Model A300 series airplanes. Seven airplanes had FQI probes without minimum clearance. This condition, if not corrected, could result in the possibility of electrical arcing to the fuel tank if the airplane should be struck by lightning.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–28–0080, dated September 28, 2000, which describes procedures for inspecting the FQI probes to make sure that there is a minimum clearance of 3.0 mm (0.118 in.) between each FQI probe and any adjacent structure and/or component in the wing fuel tanks, and adjustment of the clearance space, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2000–455–322(B), dated November 15, 2000, in order to assure the continued

airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 20 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,400, or $420 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 2000–NM–374–AD.

Applicability: All Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the possibility of electrical arcing to the fuel tank if the airplane should be struck by lightning, accomplish the following:

Inspection

(a) Within 4,000 flight hours after the effective date of this AD, inspect the clearance space from each fuel quantity indication (FQI) probe to any adjacent structure or metallic component, in accordance with Airbus Service Bulletin A300–28–0080, dated September 28, 2000.

Clearance Adjustment

(b) If, during the inspection mandated in paragraph (a) of this AD, the clearance between any probe and its adjacent parts, as described in Airbus Service Bulletin A300–28–0080, dated September 28, 2000, is less than 3.0 mm (0.118 in.), prior to further flight, adjust the position of the FQI probe in accordance with paragraph 3.C. of the service bulletin.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–455–322(B), dated November 15, 2000.

Issued in Renton, Washington, on April 30, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11228 Filed 5–3–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. The proposed AD would have required an eddy current inspection to detect cracks in the upper girder of the two main landing gear (MLG) brackets; and repair of a cracked bracket followed by repetitive inspections, or replacement of a cracked MLG bracket with an improved bracket, as applicable. The proposed AD also provided for an optional terminating action for certain proposed requirements. That proposal was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This new action revises the proposed rule by adding new repetitive inspections for certain airplanes, and extending the repetitive interval for the repetitive inspections for other airplanes. The actions specified by this new proposed AD are intended to detect and correct cracks in the upper girder of the MLG bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear.

DATES: Comments must be received by May 29, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–220–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–220–AD.'' The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on November 15, 1999 (64 FR 61796). That NPRM would have required an eddy current inspection to detect cracks in the upper girder of the two main landing gear (MLG) brackets; and repair of a cracked bracket followed by repetitive inspections, or replacement of a cracked MLG bracket with an improved bracket, as applicable. That NPRM also provided for optional terminating action for certain requirements of the proposed AD. That NPRM was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The conditions described in that NPRM, if not corrected, could result in cracks in the upper girder of the MLG bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear.

Explanation of New Service Information

Since the issuance of that NPRM, Fokker has issued Service Bulletin F28/57–90, Revision 1, dated August 28, 2000. (The NPRM referenced Fokker Service Bulletin F28/57–90, dated March 1, 1999, as the appropriate source of service information for certain proposed actions.) Revision 1 of the service bulletin describes actions similar to those in the original issue of the service bulletin, but recommends new repetitive inspections for airplanes on which no cracking is detected, and increases the repetitive inspection interval from 12 months to 18 months for airplanes on which cracking is detected. Revision 1 of the service bulletin also clarifies the accomplishment instructions by providing more detailed instructions for the eddy current inspections.

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, classified Service Bulletin F28/57–90, Revision 1, as mandatory, and issued Dutch airworthiness directive 1999–045/2, dated October 31, 2000, in order to assure the continued airworthiness of these airplanes in the Netherlands.

Comments

Due consideration has been given to the comments received in response to the NPRM. Certain comments have resulted in changes to the proposed

rule, and these comments are addressed below.

Request To Add Repetitive Inspections, Extend Inspection Interval

One commenter requests that the FAA revise the repetitive inspection interval, as proposed in paragraph (a)(2) of the NPRM, to correspond with the inspection interval that the airplane manufacturer intends to incorporate in the Structural Inspection Program (SIP) Document. The interval to which the commenter refers is the 18-month repetitive inspection interval for both uncracked and repaired fittings of the MLG brackets, as provided in Revision 1 of the service bulletin, described previously. As stated above, the FAA has revised the proposal in this supplemental NPRM according to the changes in Revision 1 of the service bulletin. No further change to the proposal is necessary related to this comment.

Request To Correct a Typographical Error

A commenter points out that, in the ''Differences Between Proposed Rule, Foreign Airworthiness Directive, and Service Bulletin'' section of the NPRM, the FAA states that replacement of a cracked MLG bracket would be required if a crack exceeds 0.0591 inch (15mm) in length. The commenter notes that the referenced crack length should be ''0.591.'' The FAA acknowledges that this was a typographical error, and has ensured that the correct crack length is stated in the parallel section of this supplemental NPRM.

Explanation of Change to Cost Impact Information

In the ''Cost Impact'' section of the NPRM, the FAA stated that the proposed AD would affect six airplanes of U.S. registry. Since the issuance of the NPRM, two additional airplanes subject to this proposed AD have been added to the U.S. Register. The FAA has revised the ''Cost Impact'' section of this supplemental NPRM accordingly.

Explanation of New Requirements of Proposal

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this new proposed AD would require repetitive eddy current inspections to detect cracks in the upper girder of the two MLG brackets; and repair of a cracked bracket or replacement of a cracked bracket with an improved bracket, as applicable. Such replacement would terminate the requirements of this proposed AD. For airplanes on which no cracking is detected, replacement of an existing bracket with an improved bracket is provided as an optional terminating action for the repetitive inspections. The actions would be required to be accomplished according to Fokker Service Bulletin F28/57–90, Revision 1 (described previously), and Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999 (described in the original NPRM), except as noted below. (Operators should note that, although Fokker Proforma Service Bulletin F28/57–92 has not been revised since the original NPRM, a difference between the proposal and that service bulletin that was cited in the original NPRM is restated below for the convenience of operators.)

Differences Between Supplemental NPRM, Foreign Airworthiness Directive, and Service Bulletins

This supplemental NPRM differs from Fokker Service Bulletin F28/57–90, Revision 1, and the parallel Dutch airworthiness directive in that it would require, prior to further flight, replacement of a cracked MLG bracket with an improved bracket, if a crack exceeds 0.591 inch (15 mm) in length. The service bulletin and the Dutch airworthiness directive specify replacement of a cracked MLG bracket prior to further flight only if a crack exceeds 1.576 inches (40 mm) in length. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject MLG bracket that is found to have a crack that exceeds 0.591 (15 mm) in length must be replaced prior to further flight.

Operators should note that Fokker Service Bulletin F28/57–90, Revision 1, and the Dutch airworthiness directive specify to replace a cracked MLG bracket in accordance with Fokker Proforma Service Bulletin F28/57–92, or to contact the manufacturer for replacement instructions. However, this supplemental NPRM would require replacement of a cracked MLG bracket to be accomplished in accordance with Fokker Proforma Service Bulletin F28/57–92.

Operators also should note that, although Fokker Proforma Service Bulletin F28/57–92, including any appendix referenced in that proforma service bulletin, may specify that the manufacturer may be contacted if any discrepancies are found during the replacement of the MLG bracket, this proposal would require correction of the discrepancies in accordance with a method approved by the FAA, or the RLD (or its delegated agent). In light of the type of corrective action that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this supplemental NPRM, corrective action approved by either the FAA or the RLD would be acceptable for compliance with this proposed AD.

Conclusion

Since the changes described above expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $960, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker Services B.V.: Docket 99–NM–220–AD.

Applicability: Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes; serial numbers 11003 through 11091 inclusive, 11094 through 11171 inclusive, 11991, and 11992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks in the upper girder of the main landing gear (MLG) bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear, accomplish the following:

Repetitive Inspections and Corrective Actions

(a) Within 12 months after the effective date of this AD, perform an eddy current inspection of the upper girder of the MLG brackets on the left and right sides of the airplane for cracks, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/57–90, Revision 1, dated August 28, 2000.

(1) If no cracks are found, repeat the inspection at least every 18 months, until accomplishment of paragraph (d) of this AD.

(2) Except as provided by paragraph (c) of this AD, if any crack is found, prior to further flight, repair as specified in paragraph C.(1) of the Accomplishment Instructions of the service bulletin, in accordance with the service bulletin. Thereafter, repeat the eddy current inspection at intervals not to exceed 18 months, until accomplishment of paragraph (d) of this AD.

Note 2: Inspections accomplished before the effective date of this AD in accordance with Fokker Service Bulletin F28/57–90, dated March 1, 1999, are considered acceptable for compliance with paragraph (a) of this AD.

Reporting Requirement

(b) Within 10 days after accomplishing each inspection required by paragraph (a) of this AD, submit a report of the inspection results to: Fokker Services B.V., Technical Services, Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*.) and have been assigned OMB Control Number 2120–0056.

Replacement

(c) For airplanes on which a crack greater than 0.591 inch (15 mm) in length is found: Except as provided by paragraph (e) of this AD, prior to further flight, replace the cracked MLG bracket with a new, improved bracket (including measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, and aligning the new bracket); in accordance with Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999. Such replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

Optional Terminating Action

(d) Except as provided by paragraph (e) of this AD, replacement of the MLG bracket with a new, improved bracket (including measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, and aligning the new bracket), in accordance with Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999; constitutes terminating action for the repetitive inspections specified in paragraph (a) of this AD for the replaced bracket.

(e) If any discrepancy is detected during accomplishment of the replacement procedures, and the service bulletin or any appendix to the service bulletin specifies to contact Fokker for appropriate action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (or its delegated agent).

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in Dutch airworthiness directive 1999–045/2, dated October 31, 2000.

Issued in Renton, Washington, on April 30, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11227 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–274–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Series Airplanes and Model Hawker 800 (U–125A Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 800XP series airplanes and certain Model Hawker 800 (U–125A military) airplanes. This proposal would require a one-time inspection of an attachment bolt in the main landing gear (MLG) door system to determine whether the bolt's protruding threads have been peened; and corrective action, if

necessary. This action is necessary to prevent the disconnection of the retaining hook (which holds the MLG door up and locked) from its means of actuation, which could result in a gear-up landing and possible injury to passengers and crew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 18, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–274–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–274–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4142; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2000–NM–274–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2000–NM–274–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received results of a routine production-line inspection that identified an unsafe condition on certain Raytheon Model Hawker 800XP series airplanes and certain Model Hawker 800 (U–125A military) airplanes. The inspection concerned attachment bolts on the retaining hooks of the main landing gear (MLG) doors. The bolts are located at the interface between the retaining hooks on the right and left MLG doors and the uplock spring struts. On all of the airplanes inspected, the threads of the attachment bolts had not been peened, as required by the airplanes' type design. Peening is the only positive means specified in the design for retaining the nuts on the attachment bolts. This condition, if not corrected, could result in a gear-up landing and possible injury to passengers and crew.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB 32–3386, dated June 2000. The service bulletin describes procedures for inspecting an attachment bolt of the retaining hook of the MLG door, at the interface between the retaining hook and the uplock spring strut, to determine whether the bolt's protruding threads next to the nut have been peened. Corrective actions described in the service bulletin include peening the threads of any unpeened bolt. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 167 airplanes of the affected design in the worldwide fleet. The FAA estimates that 115 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,900, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Raytheon Aircraft Company: Docket 2000–NM–274–AD.

Applicability: Model Hawker 800XP series airplanes, and Model Hawker 800 (U–125A military) airplanes; certificated in any category; as listed in Raytheon Service Bulletin SB 32–3386, dated June 2000.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent a main landing gear (MLG) gear-up landing and possible injury to passengers and crew, accomplish the following:

Inspection

(a) Within 100 flight hours after the effective date of this AD: Perform a general visual inspection of the MLG attachment bolt at the interface between the right and left MLG door retaining hooks and the uplock spring struts to determine whether the bolt's protruding threads next to the nuts have been peened, in accordance with Raytheon Service Bulletin SB 32–3386, dated June 2000. If the threads have not been peened, prior to further flight, peen the threads in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 30, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11226 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–339–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–300 series airplanes. This proposal would require replacing the brake assemblies with modified brake assemblies. This action is necessary to prevent overheating of the brakes, which could result in cracked pistons and consequent leakage and burning of the hydraulic fluid. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–339–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–339–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be

considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–339–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–339–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–300 series airplanes. The LBA advises that testing was carried out by the manufacturer of the brake assemblies of these airplanes. The results of the testing indicated that the brakes can overheat under certain conditions. These overheat conditions involve applying maximum brake energy (e.g., a high energy rejected takeoff) followed by applying the parking brake. Due to the consequent conductive heat transfer from the brake heat pack to the pistons, the pistons could crack. This condition, if not corrected, could result in leakage and burning of the hydraulic fluid.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328J–32–029, Revision 1, dated August 4, 2000, which describes procedures for replacing brake assemblies having aluminum pistons with modified brake assemblies having stainless steel pistons. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this service bulletin as mandatory and issued German airworthiness directive 2000–288, dated September 21, 2000, to ensure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Explanation of Proposed Compliance Time

The FAA's proposed 7-week compliance time exceeds that mandated by the parallel German airworthiness directive. In developing an appropriate compliance time for this proposed AD, the FAA considered relevant safety implications as well as recommendations by the LBA and the manufacturer. The manufacturer recommended accomplishment of the inspection by September 30, 2000—14 weeks after issusance of the original service bulletin, and 7 weeks after issuance of Revision 1 (the version mandated by the German airworthiness directive). The original version and Revision 1 contain the same accomplishment instructions. The FAA also considered the fact that the original service bulletin has been available since June 2000 to operators of Model 328–300 series airplanes. In light of these factors, the FAA finds that the proposed compliance time represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $4,320, or $540 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Dornier Luftfahrt GMBH: Docket 2000–NM–339-AD.

Applicability: Model 328–300 series airplanes, certificated in any category, serial numbers 3105 through 3144 inclusive, 3146, 3148, 3151 through 3154 inclusive, 3158, and 3159.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of the brakes, which could result in cracked pistons and consequent leakage and burning of the hydraulic fluid, accomplish the following:

Brake Piston Replacement

(a) Within 7 weeks after the effective date of this AD, replace the left and right brake assemblies having part number (P/N) AHA2227–2 with modified brake assemblies having P/N AHA2227–3, in accordance with Dornier Service Bulletin SB–328J–32–029, Revision 1, dated August 4, 2000.

Note 2: Replacement of the brake assemblies prior to the effective date of this AD in accordance with Dornier Service Bulletin SB–328J–32–029, dated June 14, 2000, is also acceptable for compliance with the requirements of paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person may install a brake assembly having P/N AHA2227–2 on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in German airworthiness directive 2000–288, dated September 21, 2000.

Issued in Renton, Washington, on April 30, 2001.

John W. McGraw,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11225 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–366–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that currently requires repetitive inspections of the left and right roll spoiler actuators to check for signs of leakage and deformation of the housing, repetitive inspections of the gap between the left roll spoiler actuator housing cap and the actuator housing, repetitive torque checks of the left roll spoiler actuator housing cap attachment screws, and corrective action, if necessary. This action would require replacement of the double shuttle valves in the roll spoiler actuators with new improved valves. Accomplishment of the proposed replacement would constitute terminating action for the requirements of this AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent oil leakage from the roll spoiler actuators, which could result in incorrect roll spoiler operation and reduced controllability of the airplane.

DATES: Comments must be received by June 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–366–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–366–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–366–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–366–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 22, 1999, the FAA issued AD 99–22–15, amendment 39–11393 (64 FR 59117, November 2, 1999), applicable to all Dornier Model 328–100 series airplanes, to require repetitive inspections of the left and right roll spoiler actuators to check for signs of leakage and deformation of the housing, repetitive inspections of the gap between the left roll spoiler actuator housing cap and the actuator housing, repetitive torque checks of the left roll spoiler actuator housing cap attachment screws, and corrective action, if necessary. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent oil leakage from the roll spoiler actuators, which could result in incorrect roll spoiler operation and reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the manufacturer has developed an improved double shuttle valve to replace the existing valves in the roll spoiler actuator, which have been subject to leakage. Replacement of the valves would terminate the need for repetitive inspections of the roll spoiler actuators for leaks.

Explanation of Relevant Service Information

The manufacturer has issued Dornier Service Bulletin SB–328–27–310, dated June 10, 2000, which describes procedures for replacement of the double shuttle valves with the new improved valves. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, classified this service bulletin as mandatory and issued German airworthiness directive 1998–479/3, dated October 5, 2000, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral aviation safety agreement. Pursuant to the implementation procedures for airworthiness of this bilateral aviation safety agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 99–22–15 to continue to require repetitive inspections of the left and right roll spoiler actuators to check for signs of leakage and deformation of the housing, repetitive inspections of the gap between the left roll spoiler actuator housing cap and the actuator housing, repetitive torque checks of the left roll spoiler actuator housing cap attachment screws, and corrective action, if necessary. The proposed AD would add the requirement to replace the double shuttle valves in the roll spoiler actuators, which would terminate the repetitive inspections and checks. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 50 airplanes of U.S. registry that would be affected by this proposed AD.

The repetitive inspections and checks that are currently required by AD 99–22–15 take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these inspections and checks on U.S. operators is estimated to be $9,000, or $180 per airplane, per inspection cycle.

The replacement that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided at no charge to operators. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal

would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11393 (64 FR 59117, November 2, 1999), and by adding a new airworthiness directive (AD), to read as follows:

Dornier Luftfahrt GMBH: Docket 2000–NM–366–AD. Supersedes AD 99–22–15, Amendment 39–11393.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent oil leakage from the roll spoiler actuators, which could result in incorrect roll spoiler operation and reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 99–22–15

(a) Within 14 days after December 7, 1999 (the effective date of AD 99–22–15, amendment 39–11393), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD on the left and right roll spoiler actuators, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999. Thereafter, repeat the inspections required by paragraphs (a)(1) and (a)(2) of this AD at intervals not to exceed 400 flight hours.

(1) Perform a detailed inspection to detect leakage of the area around the actuator cap and housing of the roll spoiler actuators. If leakage is found, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

(2) Perform a detailed inspection to detect flatness of the surface of the cap of the roll spoiler actuators. If the cap surface is not flat, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

(b) Within 14 days after December 7, 1999, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD on the left roll spoiler actuator, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, Revision 1, dated September 22, 1999. Thereafter, repeat the inspections required by paragraphs (b)(1) and (b)(2) of this AD at intervals not to exceed 400 flight hours.

(1) Perform a detailed inspection to detect a gap between the cap of the roll spoiler actuator and the actuator housing. If any gap exists, prior to further flight, replace the actuator and the double shuttle valve with new or serviceable parts.

(2) Perform a torque check of the housing cap attachment screws. If the torque is within the limits specified by the alert service bulletin, prior to further flight, torque the screws to 17.7 lb-in, in accordance with the alert service bulletin. If the torque is outside the limits specified by the alert service bulletin, prior to further flight, replace the left roll spoiler actuator and double shuttle valve with new or serviceable parts, in accordance with the alert service bulletin.

(c) If any left roll spoiler actuator is replaced during any inspection required by paragraph (b)(1) or (b)(2) of this AD, prior to further flight, accomplish the requirements of paragraphs (b)(1) and (b)(2) for the right roll spoiler actuator.

Note 3: Accomplishment of the inspections required by paragraphs (a) and (b) of this AD prior to the effective date of this AD, in accordance with Dornier Alert Service Bulletin ASB–328–27–025, dated October 16, 1998, is acceptable for compliance with the initial inspections required by those paragraphs.

New Actions Required By This AD

Replacement

(d) Within 90 days after the effective date of this AD: Replace the double shuttle valves with new improved double shuttle valves, in accordance with Dornier Service Bulletin SB–328–27–310, dated June 10, 2000. Accomplishment of this action constitutes terminating action for the requirements of this AD.

Spares

(e) As of the effective date of this AD, no person shall install a double shuttle valve having any of the following part numbers on any airplane:

ZCV 193
ZCV 193–1 Revision Letter J
ZCV 193 MOD
ZCV 193–1
ZCV 193–1 MOD
ZCV 193–2 MOD
ZCV 193–3
ZCV 193–4
ZCV 193–5

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 99–22–15, amendment 39–11393, are approved as alternative methods of compliance with the requirements of paragraphs (a), (b) and (c) of this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 5: The subject of this AD is addressed in German airworthiness directive 1998–479/3, of which the effective date is October 5, 2000.

Issued in Renton, Washington, on April 30, 2001.

John W. McGraw,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–11224 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–08]

Modification of Class E Airspace; Pittsburgh, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E airspace at Pittsburgh, PA. Closure of the Pittsburgh Metro Airport, PA requires its deletion from the Pittsburgh, PA, E5 airspace designation. The area would no longer be depicted on aeronautical charts.

DATES: Comments must be received on or before June 4, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–08, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

An informal docket may be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809: telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–08.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an action to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71). Pittsburgh, PA. The Pittsburgh Metro Airport has closed and therefore there is no need to have airspace designated as Class E for the airport. Pittsburgh, PA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation described in this document would be subsequently amended to reflect the deletion in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

Part 71—[Amended]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565; 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H dated September 1, 2000, and effective September 16, 2000, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5, Pittsburgh, PA [Revised]

Greater Pittsburgh International Airport, Pittsburgh, PA
(Lat. 40°29′29″N., long. 80°13′57″W.)
Allegheny County Airport, PA
(Lat. 40°21′16″N., long. 79°55′48″W.)
STARG OM
(Lat. 40°29′15″N., long 80°22′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.9 mile radius of Greater Pittsburgh International Airport and within 3.1 miles each side of the Greater Pittsburgh Runway 10R localizer course extending from the 7.9-mile radius to 5.7 miles west of the STARG OM and within a 6.6-mile radius of Allegheny County Airport.

Issued in Jamaica, New York on April 23, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–11258 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–5]

Proposed Establishment of Class E5 Airspace; LaFayette, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E5 airspace at LaFayette, GA. Area Navigation (RNAV) Runway (RWY) 02 and RWY 20 Standard Instrument Approach Procedures (SIAP) have been developed for Barwick LaFayette Airport, LaFayette, GA. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Barwick LaFayette Airport. The operating status of the airport would change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: Comments must be received on or before June 4, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–5, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–ASO–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs shall also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E5 airspace at LaFayette, GA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 401113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 LaFayette, GA [NEW]

Barwick LaFayette Airport, GA
(Lat. 34°41′31″N, long. 85°17′43″W)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of Barwick LaFayette Airport, excluding that airspace within the Chattanooga, TN, Class E airspace area and that airspace within the Fort Payne, AL, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on April 24, 2001.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–11257 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Household Products Containing Hydrocarbons; Extension of Comment Period on Notice of Data Availability

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of data availability; extension of comment period.

SUMMARY: In the **Federal Register** of April 11, 2001, 66 FR 18738, the Consumer Product Safety Commission (''CPSC'' or ''Commission'') invited comment on: An analysis conducted by CPSC staff on brand name-specific data on exposure to possible hydrocarbon-containing cosmetics; and an additional staff analysis of data available when the Commission issued a Notice of Proposed Rulemaking (''NPR'') proposing child-resistant packaging requirements for household chemical and cosmetic products with viscosity less than 100 Saybolt Universal Seconds (''SUS'') containing 10 percent or more hydrocarbons, 65 FR 93 (January 3, 2000). In response to a request on behalf of the Cosmetic, Toiletry, and Fragrance Association to extend the comment period on these analyses for 60 days, the Commission is extending it for an additional 30 days, that is, through Monday, June 11, 2001.[1] Today's document does not re-open the comment period on the NPR.

DATES: The Office of the Secretary must receive any comments on the staff analyses not later than June 11, 2001.

ADDRESSES: Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments also may be filed by facsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov. Comments should be captioned ''Notice of Additional Hydrocarbon Data.''

FOR FURTHER INFORMATION CONTACT: Suzanne Barone, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0477, ext. 1196.

SUPPLEMENTARY INFORMATION: Copies of the staff analyses may be obtained from the Office of the Secretary. The analyses are also available on the CPSC world wide web site at: http://www.cpsc.gov/library/foia/foia01/brief/hydrocar.pdf

Comments on the analyses must be received by the Office of the Secretary not later than Monday, June 11, 2001.

Dated: April 30, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–11199 Filed 5–3–01; 8:45 am]

BILLING CODE 6355–01–P

[1] Commissioners Mary Sheila Gall and Thomas H. Moore voted to extend the comment period by 30 days. Chairman Ann Brown voted to deny the request to extend the comment period.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 300–2 and Chapter 304

[FTR Amendment]

RIN 3090–AE19

Federal Travel Regulation; Payment of Travel Expenses From a Non-Federal Source

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the Federal Travel Regulation (FTR) for payment of travel expenses from a non-Federal source. This amendment is written in plain language using a question and answer format in continuation of the General Services Administration's (GSA's) efforts to make the FTR easier to understand and to use.

DATES: Comments must be received on or before July 3, 2001.

ADDRESSES: Written comments should be sent to: Mr. Michael E. Hopkins, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW., Washington, DC 20405–0001. E-Mail: RIN.3090–AE19@gsa.gov

FOR FURTHER INFORMATON CONTACT: Jim Harte, Travel Team Leader, Travel Management Policy Division (MTT), telephone (202) 501–0483.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule revises the coverage published in the **Federal Register** as Interim Rule 3 (56 FR 9878, March 8, 1991) and Interim Rule 4 (57 FR 53283, November 9, 1992). This proposed rule is written in the ''plain language'' style of regulation writing as a continuation of the General Services Administration's (GSA) effort to make the FTR easier to understand and use. Questions are in the first person, and answers are in the second person. GSA uses a ''we'' and ''you'' question when referring to an agency, and an ''I'', and ''you'' question when referring to the employee. However, the rules stated in either section apply to both the employee and agency. Another example of GSA's implementation of plain language is the use of the term ''meeting'' throughout this part instead of the phrase ''meeting or similar function.'' This change is indicated in the definition of ''meeting or similar function'' and no substantive change is intended by this change.

B. Proposed Changes

1. To permit after-the-fact agency acceptance of payment from a non-Federal source for travel expenses to a meeting under the following two circumstances prescribed in section 304–3.13:

(a) When your agency has not approved acceptance of any payments from that non-Federal source prior to the trip; and

(b) When your agency has approved acceptance of payment for some but not all travel expenses from a non-Federal source prior to the trip. In this case, your agency's prior authorization of acceptance of payment from the non-Federal source in question is deemed authorization for you to accept, on behalf of your agency, payment for additional travel, subsistence, and related expenses from the same non-Federal source, as long as the two following conditions in section 304–3.13(a) are met:

(i) That the expenses paid by the non-Federal source be comparable in value to those offered or purchased by other similarly situated attendees; and

(ii) That your agency has not specifically declined to accept certain payments from a non-Federal source for your trip. If the conditions are not met, you will be subject to the penalties specified in section 304–3.17 (i.e., you may be required to pay the U.S. Treasury the amount of the payment accepted without being eligible for reimbursement from your agency).

2. The removal of the requirement that a meeting or similar function be sponsored or co-sponsored by a Federal agency in order to fall within the scope of this part.

C. Executive Order 12866

GSA has determined that this proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This proposed rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 300–2, 304–1, 304–2, 304–3, 304–4, 304–5, 304–6, 304–7, 304–8, and 304–9

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 300 and 304 as follows:

CHAPTER 300—[AMENDED]

PART 300–2—HOW TO USE THE FTR

1. The authority citation for 41 CFR part 300–2 continues to read as follows:

Authority: 5 U.S.C. 5707; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; 40 U.S.C. 486(c); 49 U.S.C. 40118; E.O. 11609, 3 CFR, 1971–1975 Comp., p. 586.

2. Section 300–2.22 is amended by revising the table to read as follows:

§ 300–2.22 Who is subject to the FTR?

* * * * *

For	The employee provisions are contained in	And the agency provisions are contained in
Chapter 301	Subchapters A, B, and C	Subchapter D.
Chapter 302	Subchapters A, B, C, D, E, and F	Subchapters A, B, C, D, E, and F.
Chapter 303	N/A	Part 303–70.
Chapter 304	Subchapter A	Subchapters B and C.

3. Chapter 304 is revised to read as follows:

CHAPTER 304—PAYMENT OF TRAVEL EXPENSES FROM A NON-FEDERAL SOURCE

Subchapter A—Employee's Acceptance of Payment From A Non-Federal Source for Travel Expenses

Part

304–1 Authority
304–2 Definitions
304–3 Employee responsibility

Subchapter B—Agency Requirements

304–4 Authority
304–5 Agency responsibilities
304–6 Payment guidelines

Subchapter C—Acceptance of Payment for Training

304–7 Authority/applicability
304–8 Definitions
304–9 Contributions and awards

SUBCHAPTER A—EMPLOYEE'S ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES

PART 304–1—AUTHORITY

Sec.

304–1.1 To whom do the pronouns ''I'', ''you'', and their variants refer throughout this part?
304–1.2 Under what authority may I accept payment of travel expenses from a non-Federal source?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–1.1 To whom do the pronouns ''I'', ''you'', and their variants refer throughout this part?

Use of pronouns ''I'', ''you'', and their variants throughout this part refers to the employee.

§ 304–1.2 Under what authority may I accept payment of travel expenses from a non-Federal source?

Under the authority of this part and 31 U.S.C. 1353, you may accept payment of travel expenses from a non-Federal source on behalf of your agency but not on behalf of yourself when specifically authorized to do so by your agency and only for official travel to a meeting. Except as provided in § 304–3.12 of this subchapter, your agency must approve acceptance of such payments in advance of your travel.

PART 304–2—DEFINITIONS

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–2.1 What definitions apply to this chapter?

The following definitions apply to this chapter:

Employee means an appointed officer or employee of an agency, including a special Government employee as defined in 18 U.S.C. 202, or an expert or consultant appointed under the authority of 5 U.S.C. 3109.

Meeting or similar function (meeting) means a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station. *Meeting* as defined in this chapter does not include a meeting or other event required to carry out an agency's statutory or regulatory functions such as investigations, inspections, audits, site visits, negotiations, or litigation. *Meeting* also does not include promotional vendor training or other meetings held for the primary purpose of marketing the non-Federal sources products or services, or long term TDY or training travel. A meeting or similar function need not be widely attended for purposes of this definition and includes but is not limited to the following:

(1) An event where the employee will participate as a speaker or panel participant focusing on his/her official duties or on the policies, programs, or operations of the agency.

(2) A conference, convention, seminar, symposium or similar event where the primary purpose is to receive training other than promotional vendor training, or to present or exchange substantive information of mutual interest to a number of parties.

(3) An event where the employee will receive an award or honorary degree, which is in recognition of meritorious public service that is related to the employee's official duties, and which may be accepted by the employee consistent with the applicable standards of conduct regulations.

Non-Federal source means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association or international or multinational organization (irrespective of whether an agency holds membership in the organization or association), or foreign, State, or local government

(including the government of the District of Columbia).

Payment means a monetary payment from a non-Federal source to a Federal agency for travel, subsistence, and related expenses by check or other monetary instrument payable to the Federal agency (i.e., electronic fund transfer (EFT), money order, charge card, etc.) or payment in kind.

Payment in kind means transportation, food, lodging, or other travel-related services provided by a non-Federal source instead of monetary payments to the Federal agency for these services. Payment in kind also includes waiver of any fees that a non-Federal source normally collects from meeting attendees (e.g., registration fees).

Travel, subsistence, and related expenses (travel expenses) means the same types of expenses payable under chapter 301 of this title, the Foreign Affairs Manual (FAM), and the Joint Travel Regulations (JTR) for transportation, food, lodging, or other travel-related services for official travel (e.g., baggage expenses, services of guides, drivers, interpreters, communication services, hire of conference rooms, lodging taxes, laundry/dry cleaning, taxi fares). These expenses also include conference or training fees (in whole or in part), as well as benefits that cannot be paid under the applicable travel regulations, but which are incident to the meeting, provided in kind, and made available by the meeting sponsor(s) to all attendees. For example, this definition as applied to this chapter would allow an employee or spouse to attend sporting event hosted by the sponsor(s) in connection with the meeting that is available to all participants. However, it would not allow the employee to accept tickets to a professional sporting event, concert or similar event, for use at a later date even if such tickets were given to all other participants. The Foreign Affairs Manual is obtainable from: Bureau of Administration, A/IM/CST/MMS/DIR, Room 264, U.S. Department of State, Washington, DC 20520; (202) 647–3602. The Joint Travel Regulations are obtainable from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20342–0001, or available for downloading from the internet at http://www.dtic.mil/perdiem.

PART 304–3—EMPLOYEE RESPONSIBILITY

Subpart A—General

Sec.
304–3.1 To whom do the pronouns ''we'', ''you'', and their variants refer throughout this part?
304–3.2 What is the purpose of this part?
304–3.3 May my agency or I accept payment for travel expenses to a meeting from a non-Federal source?
304–3.4 What payments may my agency or I accept from a non-Federal source?
304–3.5 May I solicit payment of my travel expenses from a non-Federal source to attend a meeting?
304–3.6 May I inform a non-Federal source of my agency's authority to accept payment for travel expenses to attend a meeting?
304–3.7 What must I do if I am contracted directly by a non-Federal source offering to pay my travel expenses to attend a meeting?
304–3.8 Must I adhere to the provisions of the Fly America Act when I receive air transportation to a meeting furnished or paid by a non-Federal source?
304–3.9 May I use premium-class other than first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?
304–3.10 May I use first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?
304–3.11 Am I limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source?
304.3.12 Must I receive advance approval from my agency before I perform travel paid by a non-Federal source to attend a meeting?
304–3.13 After I begin travel to a meeting, what should I do if a non-Federal source offers to pay for one or more of my travel expenses without my or my agency's prior knowledge?
304–3.14 May a non-Federal source pay for my spouse to accompany me to a meeting?
304–3.15 Am I required to submit a report of payment received from a non-Federal source by my agency?

Subpart B—Reimbursement Claims

304–3.16 What must I submit to my agency for reimbursement when a non-Federal source pays all or part of my travel expenses to attend a meeting?

Subpart C—Penalties

304–3.17 What happens if I accept a payment from a non-Federal source that is in violation of this part?

Subpart D—Relation to Other Authorities

304–3.18 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

Subpart A—General

§ 304–3.1 To whom do the pronouns ''we'', ''you'', and their variants refer throughout this part?

Use of pronouns ''we'', ''you'', and their variants throughout this part refers to the agency.

§ 304–3.2 What is the purpose of this part?

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings. It describes how such payments must be accepted by the agency for travel of agency employee(s) and/or his/her spouse for official Government travel. Except as provided in § 304–3.13, advance agency approval is required to receive such payments.

§ 304–3.3 May my agency or I accept payment for travel expenses to a meeting from a non-Federal source?

Yes, you or your agency may accept such a payment from a non-Federal source, but you may only accept when specifically authorized to do so by your agency in connection with official travel under this part. Except as provided in § 304–3.13, your agency must approve acceptance of such payment in advance of your travel.

§ 304.3.4 What payments may my agency or I accept from a non-Federal source?

You or your agency may accept payments from a non-Federal source for all of your official travel expenses to attend a meeting, or any portion of those travel expenses mutually agreed upon between your agency and the non-Federal source. You may not accept payments for travel that is not to attend a meeting under this part. However, you may accept payments under other authorities (see § 304–3.18).

§ 304–3.5 May I solicit payment of my travel expenses from a non-Federal source to attend a meeting?

No, you may not solicit payment for travel expenses from a non-Federal source to attend a meeting.

§ 304–3.6 May I inform a non-Federal source of my agency's authority to accept payment for travel expenses to attend a meeting?

Yes, you or your agency may inform the non-Federal source of your agency's authority to accept payment for travel expenses to attend a meeting.

§ 304–3.7 What must I do if I am contacted directly by a non-Federal source offering to pay my travel expenses to attend a meeting?

If you are contacted directly by a non-Federal source offering to pay any part

of your travel expenses to attend a meeting, you must inform your agency, so that the authorized agency official can determine whether to accept the payment.

§ 304–3.8 Must I adhere to the provisions of the Fly America Act when I receive air transportation to a meeting furnished or paid by a non-Federal source?

No, if the payment or ticket was paid in full directly by the non-Federal source or reimbursed to your agency by the non-Federal source, the provisions of the Fly America Act do not apply. (See §§ 301–10.131 through 301–10.143 of this title.)

§ 304–3.9 May I use premium-class other than first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?

Yes, you may use premium other than first-class common carrier accommodations if your agency authorizes you to do so as prescribed in § 304–5.6 of this chapter.

§ 304–3.10 May I use first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?

Generally, you may not use first-class common carrier accommodations when a non-Federal source pays in full for your transportation expenses to attend a meeting. However, when you meet one of the criteria for first class travel contained in §§ 301–1.123, 301–10.162 and 301–10.183 of this title and when authorized to do so by your agency in accordance with § 304–5.7 of this chapter, you may use first-class accommodations.

§ 304–3.11 Am I limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source?

Generally, you are limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source.

(a) Subsistence allowances are usually limited to the maximum subsistence allowances (per diem or actual expense) prescribed in chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas and by the Secretary of State for travel in foreign areas. However, the maximum subsistence allowances established by this title and by the Secretary of Defense may be exceeded as long as:

(1) The non-Federal source pays the full amount of the subsistence expense, as authorized by your agency; and

(2) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by other meeting attendees.

(b) The maximum subsistence allowances established by the Secretary of State for travel to foreign areas may not be exceeded.

§ 304–3.12 Must I receive advance approval from my agency before I perform travel paid by a non-Federal source to attend a meeting?

Yes, you must receive advance approval from your agency before performing travel paid by a non-Federal source to attend a meeting except as provided in § 304–3.13

§ 304.3.13 After I begin travel to a meeting, what should I do if a non-Federal source offers to pay for one or more of my travel expenses without my or my agency's prior knowledge?

(a) If your agency has already authorized acceptance of payment for some of your travel expenses for that meeting from a non-Federal source, then you may accept on behalf of your agency, payment for any of your additional travel expenses from the same non-Federal source as long as:

(1) The expenses paid or provided in kind are comparable in value to those offered to or purchased by other similarly situated meeting attendees; and

(2) Your agency did not decline to accept payment for those particular expenses in advance of your travel.

(b) If your agency did not authorize acceptance of any payment from the non-Federal-source prior to your travel, then:

(1) You may accept, on behalf of your agency, payment from the non-Federal source for:

(i) Only the types of travel expenses that are authorized by your travel authorization (i.e., meals, lodging, transportation, but not recreation or other personal expenses); and

(ii) Only travel expenses that are within the maximum allowances stated on your travel authorization (i.e., if your travel authorization states that you are authorized to incur lodging expenses up to $100 per night, you may not accept payment from the non-Federal source for a $200 per night hotel room); and

(2) You must request your agency's authorization for acceptance from the non-Federal source within 7 working days after your trip ends; and

(3) If your agency does not authorize acceptance from the non-Federal source, your agency must either:

(i) Reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowances stated on your travel authorization; or

(ii) Require you to reimburse the non-Federal source that amount and allow you to claim that amount on your travel claim for the trip; and

(4) If you accept payment for a travel expense that exceeds the maximum allowances stated in your travel authorization, you may be subject to the penalties specified in § 304–3.17.

§ 304–3.14 May a non-Federal source pay for my spouse to accompany me to a meeting?

Yes, a non-Federal source may pay for your spouse to accompany you when it is in the interest of and authorized in advance by your agency. All limitations and requirements of this part apply to the acceptance of payment from a non-Federal source for travel expenses and/or agency reimbursement of travel expenses for your accompanying spouse. Your agency may determine that your spouse's presence at an event is in the interest of the agency if your spouse will:

(a) Support the mission of your agency or substantially assist you in carrying out your official duties; or

(b) Attend a ceremony at which you will receive an award or honorary degree.

§ 304–3.15 Am I required to submit a report of payment received from a non-Federal source by my agency?

Yes, you must provide your agency the information it needs to complete Standard Form 326 (SF 326), Semiannual Report of Payments Accepted From a Non-Federal Source (see 304–6.5 of this chapter). As long as payment from the non-Federal source is made to or on behalf of your agency, you are not required to report it as a gift on any confidential or public disclosure report you are personally required to file pursuant to law or Office of Government Ethics (OGE) regulations (5 CFR part 2635). However, you may be required to report any payment that you or your accompanying spouse receive on your own behalf, rather than the agency's behalf, pursuant to other reporting requirements such as those imposed by the Ethics in Government Act of 1978 (Public Law 95–521, 92 Stat. 1824) as amended, including reporting the payment on your financial disclosure report. You may confirm your reporting requirements with your agency ethics counselor.

Subpart B—Reimbursement Claims

§ 304–3.16 What must I submit to my agency for reimbursement when a non-Federal source pays all or part of my travel expenses to attend a meeting?

You must submit a travel claim listing all allowable travel expenses that you incurred which were not paid by a non-Federal source. Do not claim travel expenses that were furnished in kind by a non-Federal source. Your reimbursement is limited to the types of expenses authorized in chapter 301 of this title or analogous provisions of the Joint Travel Regulations or Foreign Affairs Manual. Reimbursement from your agency for expenses will not in any case exceed the amount of the expenses you incur. Such reimbursement will also adhere to established regulatory limitations except where your agency accepts payments or benefits under §§ 304–5.5 or 304–5.6 of this chapter.

Subpart C—Penalties

§ 304–3.17 What happens if I accept a payment from a non-Federal source that is in violation of this part?

If you accept payment from a non-Federal source in violation of this part:

(a) You may be required, in addition to any other penalty provided by law and applicable regulations, to pay the general fund of the Treasury, an amount equal to any payment you accepted; and

(b) In the case of reimbursement under paragraph (a) of this section, you will not be entitled to any reimbursement from the Government for your travel expenses that the payment was intended to cover.

Subpart D—Relation to Other Authorities

§ 304–3.18 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?

Yes, you may also accept payment of travel expenses from a non-Federal source under the following authorities, in addition to this part:

(a) Under 5 U.S.C. 4111 for acceptance of contributions, awards, and other payments from tax-exempt entities for non-Government sponsored training or meetings (see regulations issued by the Office of Personnel Management at 5 CFR part 410);

(b) Under 5 U.S.C. 7342 for receipt and disposition of foreign gifts (See regulations issued by the General Services Administration at 41 CFR part 102–42);

(c) Under 5 U.S.C. 7324(b) when payment is for travel to be performed for a partisan rather than an official purpose by an employee who is exempt from the Hatch Act (5 U.S.C. 7321–7326); or

(d) Pursuant to the applicable standards of ethical conduct regulations concerning personal acceptance of gifts (for example, under 5 CFR 2635.204(a) which authorizes executive branch employees to accept an unsolicited gift with a market value of $20 or less per source per occasion).

SUBCHAPTER B—AGENCY REQUIREMENTS

PART 304–4—AUTHORITY

Sec.

304–4.1 To whom do the pronouns ''we'', ''you'', and their variants refer throughout this part?
304–4.2 What is the purpose of this part?
304–4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–4.1 To whom do the pronouns ''we'', ''you'', and their variants refer throughout this part?

Use of pronouns ''we'', ''you'', and their variants throughout this part refers to the agency.

§ 304–4.2 What is the purpose of this part?

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings under 31 U.S.C. 1353. It describes how such payments may be accepted.

Note to § 304–4.2: This is the only authority under which you may accept (or authorize your employees to accept on your behalf) payment from a non-Federal source for travel expenses to attend a meeting.

§ 304–4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?

You may accept payment for travel expenses other than to a meeting from a non-Federal source under the following authorities, in addition to this part:

(a) Under 5 U.S.C. 7342 for receipt and disposition of foreign gifts (see 41 CFR part 102–42 for applicable regulations);

(b) Under 5 U.S.C. 7324(b) when payment is for travel to be performed for a partisan rather than an official purpose in the case of an employee who is exempt from the Hatch Act (5 U.S.C. 7321–7326); or

(c) Pursuant to an agency gift statute or similar statutory authority where payment is for attendance at or participation in an event (other than a meeting) relating to the official duties of the employee.

PART 304–5—AGENCY RESPONSIBILITIES

Sec.

304–5.1 May we limit the amount of payment and/or benefit that we accept from a non-Federal source?
304–5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?
304–5.3 What does our approving official need to consider before authorizing acceptance of payment from a non-Federal source for travel expenses for a meeting?
304–5.4 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?
304–5.5 May we authorize an employee to exceed the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?
304–5.6 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?
304–5.7 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?
304–5.8 May we authorize acceptance of payment from more than one non-Federal source for a single trip?
304–5.9 Must payments received for travel expenses be reported on employee's confidential or public disclosure reports?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 304–5.1 May we limit the amount of payment and/or benefit that we accept from a non-Federal source?

Yes, you may limit the amount of payment or benefit that you accept from a non-Federal source. For example, you may authorize an employee to attend only a portion of a meeting and limit acceptance of payment accordingly. You may also limit acceptance of payment of any type of benefit offered by a non-Federal source.

§ 304–5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?

An official at the highest practical administrative level who can evaluate the requirements in § 304–5.3, must approve acceptance of such payments.

§ 304–5.3 What does our approving official need to consider before authorizing acceptance of payment from a non-Federal source for travel expenses for a meeting?

(a) Before authorizing acceptance of payment, the approving official must

determine that acceptance of the payment under the circumstances would not cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of agency programs or operations. The approving official must be guided by all relevant considerations, including but not limited to the:

(1) Identity of the non-Federal source;

(2) Purpose of the meeting;

(3) Identity of other expected participants;

(4) Nature and sensitivity of any matter pending at the agency which may affect the interest of the non-Federal source;

(5) Significance of the employee's role in any such matter; and

(6) Monetary value and character of the travel benefits offered by the non-Federal source.

(b) The agency official may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the agency to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted.

§ 304–5.4 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?

You may accept payment from a non-Federal source or authorize an employee and/or the employee's spouse to accept payment on your behalf only when:

(a) You have issued the employee (and/or the employee's spouse, when applicable) a travel authorization before the travel begins;

(b) You have determined that the travel is in the interest of the Government;

(c) The travel relates to the employee's official duties; and

(d) The non-Federal source is not disqualified due to a conflict of interest under § 304–5.3.

§ 304–5.5 May we authorize an employee to exceed the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?

(a) Generally, yes. Subsistence allowances are usually limited to the maximum subsistence allowances (per diem or actual expense) prescribed in chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas, and by the Secretary of State for travel in foreign areas. However, the maximum subsistence allowances established by this title and by the Secretary of Defense may be exceeded as long as:

(1) The non-Federal source pays the full amount of the subsistence expenses, at issue; and

(2) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by meeting attendees.

(b) The maximum subsistence allowances prescribed by the Secretary of State for travel to foreign areas may not be exceeded.

§ 304–5.6 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

Yes, you may authorize an employee to travel by premium other than first-class common carrier accommodations as long as the:

(a) Non-Federal source makes full payment for such transportation services in advance of travel; and

(b) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

§ 304–5.7 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

Generally, no; however, you may authorize an employee to travel by first-class common carrier accommodations if the:

(a) Travel meets at least one of the conditions in §§ 301–10.123, 301–10.162 and 301–10.183 of this title;

(b) Non-Federal source makes full payment for such transportation services in advance of travel; and

(c) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

§ 304–5.8 May we authorize acceptance of payment from more than one non-Federal source for a single trip?

Yes, you may accept payment from more than one non-Federal source for a single trip, as long as the total of such payments do not exceed the total cost of the trip.

§ 304–5.9 Must payments received for travel expenses be reported on employee's confidential or public disclosure reports?

Generally, no; payments received by an employee (and/or the accompanying spouse, when applicable) for travel expenses to a meeting on behalf of the agency under this part are not required to be reported on confidential or public disclosure reports that an employee is otherwise required to file (See 5 U.S.C. 2634). Acceptance of payments by an employee and/or accompanying spouse on behalf of himself/herself, rather than the agency, may be subject to other reporting requirements such as those required by the Ethics in Government Act of 1978 (see 5 U.S.C. app 101–111 and 5 CFR part 2634), including reporting the payment on the employee's financial disclosure report.

PART 304–6—PAYMENT GUIDELINES

Subpart A—General

Sec.
302–6.1 May we accept a monetary payment in the form of cash from a non-Federal source?
304–6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?
304–6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?

Subpart B—Reports

304–6.4 What form must we use to report payments received by the agency from non-Federal sources?
304–6.5 What guidelines must we follow when using the SF 326?

Subpart C—Valuation

304–6.6 How do we determine the value of payments in kind that are to be reported on SF 326?
304–6.7 Must we report to the Office of Government Ethics (OGE) any information that is protected from disclosure by statute?
304–6.8 Will the reports be made available for public inspection?

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

Subpart A—General

§ 302–6.1 May we accept a monetary payment in the form of cash from a non-Federal source?

No, you may not accept a monetary payment in the form of cash from a non-Federal source. Monetary payment(s) received from a non-Federal source must be in the form of a check or similar instrument made payable to the agency.

§ 304–6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?

If you determine in advance of the employee's travel that payment from a non-Federal source will cover some but not all of the employee's allowable travel and subsistence expenses you should state on the employee's travel authorization that the employee will be reimbursed the difference between the full allowances and the payment from the non-Federal source. See chapter 301 of this title, 6 Foreign Affairs Manual, Part 100, or the Joint Travel Regulations

(JTR), Chapter 4, Parts L and Q, as applicable to determine the applicable maximum allowances.

§ 304–6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?

If an employee accepts payment from a non-Federal source in violation of this part, the employee:

(a) May be required in addition to any penalty provided by law and applicable regulations, to pay the general fund of the Treasury, an amount equal to the payment so accepted; and

(b) Shall not be entitled to any reimbursement from the Government for such expenses.

Subpart B—Reports

§ 304–6.4 What form must we use to report payments received by the agency from non-Federal sources?

Your agency head or designee must submit Standard Form 326 (SF 326), Semiannual Report of Payments Accepted From a Non-Federal Source, to report payments received from non-Federal sources. This applies to all payments that are more than $250 per event for an employee and accompanying spouse. For purposes of the $250 threshold, payments for an employee and accompanying spouse shall be aggregated.

§ 304–6.5 What guidelines must we follow when using the SF 326?

When completing the SF 326:

(a) You must complete each block on SF 326 with no exception, which includes, but is not limited to:

(1) The name and title of each Federal employee;

(2) The name and other required information for any accompanying spouse, indicating which employee the spouse accompanies;

(3) The benefit received for each event. Benefits accepted as part of a conference or training fee need not be reported separately.

(b) You must also:

(1) Submit the SF 326 no later than May 31 for payments received from the preceding October 1 through March 31;

(2) Submit a SF 326 no later than November 30 for payments received from the preceding April 1 through September 30; and

(c) Submit the SF 326 including negative reports, to:

Director of the Office of Government Ethics (OGE), 1201 New York Avenue, NW., Suite 500, Washington, DC 20005–3917

Subpart C—Valuation

§ 304–6.6 How do we determine the value of payments in kind that are to be reported on SF 326?

The following should be used in the determination of the value of payments in kind for reporting on SF 326:

(a) For conference, training, or similar fees waived or paid by a non-Federal source, you must report the amount charged other participants.

(b) For transportation or lodging, you must report the cost that the non-Federal source paid or usually would have been charged for such event.

(c) For meals or other benefits that are not provided as part of the transportation, lodging, or a conference, training or similar fee, you must report the cost to the non-Federal source or provide a reasonable approximation of the market value of the benefit.

(d) For chartered, corporate or other private aircraft:

(1) When common carrier is available, you must report the first-class rate that would have been charged by a commercial air carrier at the time the event took place.

(2) When a common carrier is not available, you must report the cost of chartering a similar aircraft using a commercially available service.

(e) Lodging where no commercial rate is available: You must report the maximum lodging rate established by GSA for CONUS, Secretary of Defense for non-foreign areas and the Secretary of State for foreign areas. These rates are available on the internet at the GSA website http://policyworks.gov/perdiem, with links to the non-foreign and foreign area rates.

§ 304–6.7 Must we report to the Office of Government Ethics (OGE) any information that is protected from disclosure by statute?

No, however, you must make available upon the request of a properly cleared OGE official any information that is protected from disclosure by statute.

§ 304–6.8 Will the reports be made available for public inspection?

Yes, OGE must make any report filed by an agency under this part (that is not protected from disclosure by statute) available for public inspection and copying on the later of the following two dates:

(a) Within 30 days after the applicable due date; or

(b) Within 30 days after the date OGE actually receives the report.

SUBCHAPTER C—ACCEPTANCE OF PAYMENTS FOR TRAINING

PART 304–7—AUTHORITY/APPLICABILITY

Sec.

304–7.1 What is the purpose of this subchapter?
304–7.2 To whom does this subchapter apply?
304–7.3 Who is exempt from this subchapter?

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 304–7.1 What is the purpose of this subchapter?

The purpose of this subchapter is to provide for reductions in per diem and other travel reimbursement when employees receive contributions, awards and other payments from non-Federal sources for training in non-Government facilities and attendance at meetings under 5 U.S.C. 4111.

§ 304–7.2 To whom does this subchapter apply?

This subchapter applies to:

(a) Civilian officers and employees of:

(1) Executive departments as defined in 5 U.S.C. 101;

(2) Independent establishments as defined in 5 U.S.C. 104;

(3) Government corporations subject to chapter 91 of title 31 U.S.C.;

(4) The Library of Congress;

(5) The Government Printing Office (GPO);

(6) The government of the District of Columbia; and

(b) Commissioned officers of the National Oceanic and Atmospheric Administration.

§ 304–7.3 Who is exempt from this subchapter?

The following, under 5 U.S.C. 4102 and the implementing regulation at 5 CFR 410.101(b), are exempt from this subchapter:

(a) A corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(b) The Tennessee Valley Authority;

(c) An individual (except a commissioned officer of the National Oceanic and Atmospheric Administration) who is a member of a uniformed service during a period in which he is entitled to pay under 37 U.S.C. 204; and

(d) The U.S. Postal Service, Postal Rate Commission and their employees.

PART 304–8—DEFINITIONS

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 304–8.1 For the purpose of this subchapter, who is a donor?

A donor, for the purpose of this subchapter, is an non-profit charitable organization described by 26 U.S.C. 501(c)(3), that is exempt from taxation under 26 U.S.C. 501(a).

PART 304–9—CONTRIBUTIONS AND AWARDS

Sec.

304–9.1 May we allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings under this subchapter?
304–9.2 May we pay an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting?
304–9.3 May we reimburse an employee for training expenses that are not fully paid by a donor?
304–9.4 What if the employee is compensated by a donor and by us for the same expenses?
304–9.5 Must we reduce an employee's reimbursement when a donor pays for items for which we are not authorized to reimburse the employee?
304–9.6 Must we obtain data from employees or donors for all expenses received?

Authority: 5 U.S.C. 4111(b); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 304–9.1 May we allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings under this subchapter?

Yes, you may allow an employee to accept contributions and awards pertaining to training and payments incident to attendance at meetings when you specifically authorize them to do so in accordance with OPM guidelines issued under section 401(b) of Executive Order 11348 (see 5 CFR part 410) and section 303(j) of Executive Order 11348 (3 CFR, 1966–1970 Comp., p. 639). The OPM guidelines may be found at 5 CFR part 410.

§ 304–9.2 May we pay an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting?

No, you may not reimburse an employee for expenses that are fully reimbursed by a donor for training in a non-Government facility, or travel expenses incident to attendance at a meeting.

§ 304–9.3 May we reimburse an employee for training expenses that are not fully paid by a donor?

Yes, you may reimburse an employee for training expenses that are not fully paid by a donor an amount considered sufficient to cover the balance of expenses to the extent authorized by law and regulation, including 5 U.S.C. 4109 and 5 U.S.C. 4110.

§ 304–9.4 What if the employee is compensated by a donor and by us for the same expenses?

If you reimburse an employee for expenses that are also paid by a donor, you must establish and carry out policy in accordance with 5 U.S.C. 5514 to recover any excess amount paid to the employee.

§ 304–9.5 Must we reduce an employee's reimbursement when a donor pays for items for which we are not authorized to reimburse the employee?

No, when a donor pays for travel expenses that the Government is not authorized to pay (such as travel expenses for an employee's family) no reduction in payment is required.

§ 304–9.6 Must we obtain data from employees or donors for all expenses received?

Yes, you must set agency policy to ensure collection of expense data in such detail as you deem necessary to carry out this part.

Dated: February 26, 2001.

G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

[FR Doc. 01–11244 Filed 5–3–01; 8:45 am]

BILLING CODE 6820–34–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1021; MM Docket No. 01–95; RM–10093]

Radio Broadcasting Services; Naches, Sunnyside and Benton City, Washington

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Butterfield Broadcasting Corporation (''petitioner'') licensee of Stations KZTA(FM), Naches, Washington and KZTB(FM), Sunnyside, Washington. Petitioner proposes to substitute Channel 245C2 for 245A at Naches, and to reallot Channel 244A from Sunnyside to Benton City, Washington, as the community's first local transmission service. Channel 245C2 can be allotted at Naches at petitioner's requested site at coordinates NL 46–36–02 and WL 120–56–06 and Channel 244A can be reallotted from Sunnyside to Benton City in compliance with the Commission's minimum distance separation requirements at petitioner's requested site, at coordinates NL 46–14–48 and 120–25–40.

DATES: Comments must be filed on or before June 11, 2001, and reply comments on or before June 26, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Peter Gutmann, Esq., Pepper and Corazzini, 1776 K Street, NW., Suite 200, Washington, DC 20006. (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, and (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–95 adopted April 11, 2001 and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington is amended by removing Channel 245A at Naches and adding Channel 245C2 at Naches, and by removing Sunnyside, Channel 244A, and adding Benton City, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11174 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1022; MM Docket No. 01–94; RM–10086]

Radio Broadcasting Services; Corinth, Scotia and Hudson Falls, New York

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition for rule making filed by Vox New York, LLC, licensee of Stations WHTR(FM), Corinth, New York, and WFFG–FM, Hudson Falls, New York, proposing the substitution of Channel 229A for Channel 228A at Corinth, New York, the reallotment of Channel 229A from Corinth to Scotia, New York, as the community's first local service, and the reallotment of Channel 296A from Hudson Falls, New York, to Corinth. Channel 229A is reallotted from Corinth to Scotia at a site 9.9 kilometers (6.2 miles) northwest of the community at coordinates 42–54–27 NL, and 74–00–57 WL. Channel 296A can be reallotted from Hudson Falls to Corinth at petitioner's licensed site 5 kilometers (3.1 miles) east of the community at coordinates 43–14–40 NL and 73–46–18 WL.

DATES: Comments must be filed on or before June 11, 2001, and reply comments on or before June 26, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Jonathan E. Allen, Rini, Coran, and Lancellotta, P.C., 1350 Connecticut Avenue, NW., Suite 900,Washington, DC 20036–0551 (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, at (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–94 adopted April 11, 2001 and released April 20, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 228A at Corinth and adding Channel 296A at Corinth, by removing Channel 296A at Hudson Falls, and by adding Scotia, Channel 229A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–11172 Filed 5–3–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383, 384, and 390

[Docket No. FMCSA–00–7382]

RIN 2126–AA55

Commercial Driver's License Standards; Requirements and Penalties; Noncommercial Motor Vehicle Violations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA proposes disqualification regulations for drivers subject to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA). Sections 201(b) and 202(h) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) amended the CMVSA by adding disqualification requirements for a commercial driver's license (CDL) holder convicted of committing violations while operating a noncommercial motor vehicle (non-CMV). Each State would be required to disqualify the CDL upon conviction by revoking, suspending, or canceling it. Each employer would be required to stop using a driver from driving a commercial motor vehicle (CMV) upon the State's disqualification. The purpose of this proposal is to enhance the safety of CMV operations on our nation's highways.

DATES: You must submit comments on or before August 2, 2001.

ADDRESSES: You can mail, hand deliver, fax, or electronically submit written comments to the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001; FAX: (202) 493–2251, on-line at *http://dmses.dot.gov/submit.*

Please include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays at the docket facility. You can also examine the docket on the Internet at *http://dms.dot.gov.* If you want us to notify you of receipt of your comments, please include a self-addressed, stamped envelope or postcard, or after submitting comments electronically, print the acknowledgment page.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, (202) 366–9579, and

for legal issues, Mr. Charles Medalen, (202) 366–1354. Both individuals are at the FMCSA, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will consider all comments received before the close of business on the comment closing date indicated in the **DATES** section. We will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. The FMCSA may, however, issue a final rule at any time after the close of the comment period.

This proposed rule uses plain language so those individuals unfamiliar with FMCSA regulations will find it easier to follow. We have made the text clearer, standardizing terms, changing to the active voice, reorganizing material for added clarity, inserting or revising headings to reflect content accurately, and correcting typographical, punctuation, and grammatical errors.

This NPRM focuses on changes to parts 383 and 384 that are required by the MCSIA (Public Law 106–159, December 9, 1999, 113 Stat. 1749). These parts relate to commercial driver licensing standards that affect States, employers, and employees. Part 391 addresses the qualifications that motor carriers must meet in selecting drivers to operate in interstate commerce. These three parts necessarily interact. The FMCSA is interested in any comments on possible changes to part 391 that it should consider in order to increase our stakeholders' understanding of the statutory and regulatory requirements imposed upon them.

Background

For the purposes of this document, the term CMV refers to the definition of a CMV in the CMVSA and codified at 49 U.S.C. 31301 *et seq.* Generally, a CMV is a motor vehicle used in commerce to transport passengers or property that meets any one of the following three conditions.

(1) The motor vehicle has a gross vehicle weight rating or gross vehicle weight (whichever is greater) of at least 26,001 pounds (11,794 kilograms).

(2) The motor vehicle is designed to transport at least 16 passengers including the driver.

(3) The motor vehicle is used to transport material required to be placarded under 49 CFR part 172 subpart F.

For the purposes of this document, the term non-CMV refers to vehicles not covered by this definition of CMV.

Noncommercial Motor Vehicle Violations

The CMVSA disqualifications section, codified at 49 U.S.C. 31310, has specified offenses related to operating a CMV requiring specific periods a State must disqualify a driver from operating a CMV. The MCSIA amended the CMVSA disqualifications at section 31310 by adding specific offenses related to operating a non-CMV. The Secretary may also specify disqualification periods the State must use when disqualifying a driver from operating a CMV.

For example, a CDL holder operates a non-CMV and refuses to take an alcohol test as required by a State's implied consent laws, as defined in 49 CFR 383.72. Under this proposal, a State must disqualify the CDL holder from operating a CMV for one year based on the first conviction for refusing to take an alcohol test after operating the non-CMV.

A second example would be if a CDL holder uses a non-CMV in the commission of a felony involving dispensing a controlled substance. Under this proposal, a State must disqualify the CDL holder from operating a CMV for life even though the conviction involved the operation of a non-CMV. The State may never reinstate the person's privilege to operate a CMV because the CMVSA does not provide reinstatement privileges for felonies related to dispensing controlled substances.

A third example would be a CDL holder who has been convicted of three serious traffic violations in a CMV within a 3-year period. The CDL holder makes erratic or improper traffic lane changes while operating a non-CMV. Under this proposal, a State must disqualify the CDL holder from operating a CMV for 120 days based on a fourth conviction in separate incidents within a 3-year period while operating either a CMV or non-CMV.

This document proposes to implement parts of Sec. 201(b) and all of Sec. 202(h) of the MCSIA. These sections amend 49 U.S.C. 31310 and 31311 to require the disqualifications of CDL holders for certain offenses committed in non-CMVs—typically private automobiles, motorcycles, and light-duty and medium-duty trucks.

Background of CDLIS

This proposed rule would also modify and clarify the FMCSA's Commercial Driver's License Information System (CDLIS). The Secretary of Transportation must maintain an information system that serves as the clearinghouse and depository of information about any person who operates CMVs and his/her identification, licensing history, and disqualification history. 49 U.S.C. 31309. The CDLIS also includes information about a person required to have a CDL who has violated the requirement to obtain a CDL before operating a CMV.

In 1988, the Federal Highway Administration (FHWA) entered into an agreement under Sec. 31309(b) with the American Association of Motor Vehicle Administrators and its affiliate AAMVAnet, Inc. (AAMVAnet), to use its system as the CDLIS. The agreement made AAMVAnet the CDLIS operator. Under Section 106(b) of MCSIA, the agreement transferred to the FMCSA and remains in effect until the FMCSA modifies or terminates it. A copy of the 1988 agreement is in the public docket.

The agreement states that AAMVAnet will ''cooperate fully with FHWA [FMCSA] with respect to the operation of CDLIS including, but not limited to, information content and the development of standards relating to access to CDLIS by States and various employers and employees.'' The FMCSA informs AAMVAnet of the specific driver records and driver identification data necessary to the implementation and enforcement of the disqualifications called for in 49 CFR 383.51. In the State compliance regulations, § 384.231(d) *Recordkeeping requirements* requires each State to maintain driver records and cause driver identification data to be retained on the CDLIS which are necessary to the implementation and enforcement of the disqualifications called for in §§ 384.215 through 384.219. Cross-references in these sections refer to § 383.51 disqualifications.

CMV Offenses

Ensuring that only safe drivers are operating CMVs is an important part of the FMCSA's safety strategy. Section 383.51 specifies that a driver must be disqualified for specific periods for specific disqualifying offenses involving the operation of a CMV. The CMVSA, specifically 49 U.S.C. 31310(b), (c), (d), and (e), requires federally-mandated disqualifications for the following eight offenses:

1. Driving drunk in a CMV.

2. Leaving the scene of an accident in a CMV.

3. Committing general felonies in a CMV.

4. Committing controlled substance-related felonies in a CMV.
5. Speeding excessively in a CMV.
6. Driving recklessly in a CMV.
7. Violating motor vehicle traffic control laws in a CMV and causing an accident resulting in a fatality.
8. Violating other laws or regulations in a CMV that the FMCSA may specify by regulation as serious.

Section 4009 of the Motor Carrier Safety Act of 1991, codified at 49 U.S.C. 31310(i), requires CDL disqualifications for driver violations of out-of-service orders. Section 403 of the ICC Termination Act of 1995 (ICCTA) codified at 49 U.S.C. 31310(j) and 31311(a)(17)), requires CDL disqualifications for CMV drivers who are convicted of violating laws or regulations pertaining to railroad-highway grade crossings.

As part of this rulemaking, several amendments are also proposed to clarify our regulations in §§ 383.5, 383.71, and 383.73 about disqualifying offenses. In addition, an amendment to § 384.231(d) would add an incorporation by reference requiring States to conform to the recordkeeping requirements of AAMVAnet's ''Commercial Driver's License Information System (CDLIS) State Procedures,'' Version 2.0, October 1998. This amendment would also add cross-references to §§ 384.221 through 384.224.

Non-CMV Offenses

The MCSIA amendments proposed in this action prohibit the holder of a CDL from operating a CMV if the CDL holder commits certain offenses while operating a non-CMV. In addition, the amendment to Sec. 31311 requires each State to adopt and enforce the Federal sanctions prescribed by Sec. 31310(g).

The FMCSA believes that a record of convictions for serious traffic violations and other offenses while operating a non-CMV is just as important as a conviction in a CMV in determining whether a driver should retain his or her CDL. This is the essence of our proposal in § 383.51.

While a CDL holder repeatedly convicted of violations in non-CMVs usually does not have a record of similar convictions while operating CMVs, this does not necessarily mean that his/her driving habits in CMVs are superior. The FHWA conducted a study for Congress about the CDL program's effectiveness. The report is entitled ''Commercial Driver's License Effectiveness Study,'' (Volume I, Executive Summary, NTIS# PB99–139792; Volume II, Technical Report, NTIS# PB99–139800; September 1998) (Study). The study documented that many CDL holders receive citations for serious violations in CMVs. (See the docket for a copy of this study.) Many of these violations are not entered into their records as such, because they are either reduced through plea-bargaining and deferral programs or ''masked'' from public view on their record.

Furthermore, a high percentage of the convictions of CDL holders list the type of vehicle being driven at the time of a violation as ''unknown'' or ''no.'' The ''unknown'' indicator is used when a State licensing agency cannot determine whether the conviction occurred in a CMV, based on the information provided to them with the conviction document. Some States, rather than list the vehicle type as ''unknown,'' assume that an unknown vehicle is not a CMV and use the indicator ''no'' meaning ''not in a CMV.'' This proposal and a subsequent proposal (RIN 2126-AA60) to be published in the **Federal Register** in the near future would attempt to solve 16 CDL-related problems, including:

1. Disqualifying drivers for non-CMV convictions.
2. Defining an imminent hazard.
3. Creating an emergency disqualification of drivers posing an imminent hazard.
4. Creating a new school bus endorsement.
5. Providing emergency grants to States in noncompliance with CDL requirements.
6. Withholding MCSAP funds from States in noncompliance with CDL requirements.
7. Upgrading disqualifications for driving while revoked, suspended, or canceled, or the driver is disqualified from operating a CMV.
8. Upgrading disqualifications for committing homicide by motor vehicle, manslaughter, negligent homicide, or causing a fatality through the criminal operation of a CMV.
9. Creating three new serious traffic violations for driving a CMV when the driver has not obtained a CDL, driving a CMV without a CDL in the driver's possession, and driving a CMV without the driver having met the minimum testing standards for the specific class of CMV being operated or for the type of cargo being transported on the vehicle.
10. Expanding driver record checks.
11. Adding new State notifications between the licensing agency and the judicial system.
12. Prohibiting hardship licenses to a driver who loses his/her base license.
13. Adopting penalties for violating licensing requirements.
14. Maintaining records of all violations.
15. Prohibiting the masking of convictions.
16. Decertifying a State CDL program for noncompliance.

Non-CMV Alcohol Offenses

The National Highway Transportation Safety Administration (NHTSA) and the FHWA promote an alcohol standard of 0.08 for all non-CMV drivers at 23 CFR Part 1225. Most of the non-CMVs subject to the new MCSIA disqualification amendment in this proposal are motorcycles, cars, pickups, and sport utility vehicles also covered by 23 CFR Part 1225. Other non-CMVs covered by the new MCSIA disqualifications amendment in this proposal include commercial vehicles with a gross vehicle weight rating of 11,794 kilograms (26,000 pounds) or less, which are subject to the FMCSA's zero tolerance alcohol standard under 49 CFR 392.5.

The FMCSA is proposing one exception to the non-CMV alcohol-related disqualifying offenses listed under § 383.51. Current § 383.51(b)(2)(i)(A), requiring disqualification for an alcohol concentration of 0.04 or more, is not included in the proposed non-CMV alcohol offenses because it would be difficult to enforce in most States. While all States support the higher standard of 0.04 or more alcohol concentration (''under the influence'') for all drivers operating large CMVs, their standard for non-CMV drivers is an alcohol concentration of 0.08 to 0.10 percent (''intoxication'' or ''impairment'').

Requiring states to use two different alcohol standards for drivers of these vehicles—one for CDL holders, one for all other license holders—would be difficult to implement and enforce. CDL holders, virtually all of whom drive private cars or light trucks, constitute less than 5 percent of the total number of drivers licensed to operate non-CMVs. The FMCSA believes that safety, in this situation, would be better served by the strong enforcement of existing intoxication and impairment laws for all non-CMV drivers. Under the proposed requirements, if a CDL holder is convicted of ''being under the influence,'' ''intoxicated,'' or ''impaired'' while operating a non-CMV and his or her license is suspended, revoked, or canceled, the driver would also be disqualified from operating a CMV.

Non-CMV Railroad-Highway Grade Crossing Violations

The FMCSA proposes to designate a railroad-highway grade crossing violation in a non-CMV as a serious

offense, as permitted by MCSIA. Section 31310(g) of title 49 U.S.C. permits the Secretary of Transportation to disqualify from operating a CMV a person who has been convicted of ''a serious offense involving a motor vehicle (other than a [CMV]) that has resulted in the revocation, cancellation, or suspension of the individual's license * * *'' In its report on a predecessor bill which included a disqualification provision virtually identical to 49 U.S.C. 31310(g), as amended by MCSIA, the House Committee on Transportation and Infrastructure said ''[t]he Committee expects the Department, in determining the appropriate disqualifying offenses by rulemaking, will focus on serious offenses, such as driving while intoxicated and reckless driving. The Committee does not intend for this rule to include minor traffic citations.'' H.R. Rep. No. 106–333, at 16 (1999). In section 403 of the ICCTA, codified at 49 U.S.C. 31310(j), Congress added railroad-highway grade crossing violations to the other disqualification offenses. The Conference Report on the ICCTA ''directs the Secretary to issue regulations establishing sanctions and fines for operators of [CMVs] who violate railroad-highway crossing laws and regulations.'' H.R Rep. No. 104–422, at 238 (1995), *reprinted in* 1995 U.S.C.C.A.N. 850, 923.

In considering the MCSIA, the House report states the Secretary is required to issue regulations establishing criteria for disqualifying from operating a CMV an individual who holds a CDL and who has been convicted of serious offenses involving a vehicle other than a CMV. The Congress, therefore, directed the Secretary to conduct a rulemaking to determine the appropriate non-CMV offenses and minimum periods for which a CDL holder should be disqualified. The statute, however, provided that in no case would the types of non-CMV offenses or the time periods for which CDL holders are disqualified for such offenses be more stringent than the offenses and disqualification periods involving a CMV. The FMCSA believes railroad-highway grade crossing violations in non-CMVs are serious offenses that can and do lead to fatalities, bodily injuries, and significant property damage.

The FMCSA is therefore proposing that CDL holders who violate railroad-highway grade crossing regulations in non-CMVs be disqualified from operating a CMV.

Number of CDL Citations

The FMCSA requires AAMVAnet to have in the CDLIS, and each State to maintain on each violation, information on whether the vehicle being operated at the time of the violation was a CMV. Each State accomplishes this requirement by indicating on each traffic citation whether the vehicle being operated at the time of the violation is a CMV. Because of this proposed rule, AAMVAnet must modify the CDLIS and would add a requirement for each State to indicate for every violation whether the driver's license is a CDL. The FMCSA believes each State will accomplish this requirement by indicating on the citation whether the driver's license is a CDL. This proposed new requirement is necessary to identify a CDL holder when he or she is cited for a violation while operating a non-CMV because the violation may result in a serious traffic violation conviction and the revocation, suspension, or cancellation of the CDL.

Once the State records the conviction on the CDL record, the CDL holder would then be disqualified from operating a CMV during the period of suspension, revocation, or cancellation. Without this indicator, there is no way of identifying a CDL holder in CDLIS with any of the information currently captured on a citation. The FMCSA will later propose (in RIN 2126–AA60) a maximum period from violation and conviction to recording on the driver's record in the State of domicile.

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA must estimate the additional paperwork burden that would be required by this proposal to identify CDL holders on the citation. The FMCSA has a cooperative agreement with TML Services (TML) to perform certain commercial driver licensing functions. In its analysis conducted for the FMCSA, TML used a 1996 sample database of CDL holder records with conviction data from 1992 through 1996. This data was compiled for the Commercial Motor Vehicle Effectiveness Study (discussed earlier in this document). Using Study data, the FMCSA estimated that there were about 1.82 million convictions per year over the 4-year period. In 1996, 1.82 million convictions were tied to 8.3 million CDL records. The FMCSA does not know how many of the 1.82 million convictions were in CMVs and how many were in non-CMVs. Projecting an increase in the number of CDL records at a rate of 40,000 per month through the middle of 2004, the FMCSA estimates that 11.5 million CDL records will generate 2.53 million convictions per year.

Based on the survey of States conducted as part of the Study, the FMCSA concluded that some States were not sending and/or posting all out-of-State convictions. TML assumed that 25 to 75 percent of roughly 600,000 out-of-State convictions were either not sent to the home State or not posted by the home State during the 1992 to 1996 period. If this assumption is correct, an increase in the projected number of convictions must be made. TML calculates that the projected 2.53 million convictions per year should be increased to 2.7 to 3.0 million per year by the year 2004.

The number of convictions is clearly smaller than the number of citations issued to CDL holders. The FMCSA asked AAMVAnet for help determining the conviction rate. The AAMVAnet asked its State members for help. Only Texas was able to provide us with needed information. Based on calendar years 1998 and 1999 data, Texas concluded that 95 percent of CDL holder citations issued in the State resulted in convictions. Using this rate, the FMCSA made national estimates that between 2.84 and 3.16 million citations would be issued in 2004.

Incorporation by Reference

Paragraph (d) of § 384.231 currently has ambiguous language stating that each ''* * State shall maintain such driver records and cause such driver identification data to be retained on the CDLIS as the operator of the CDLIS specifies are necessary to the implementation and enforcement of the disqualifications called for in §§ 384.215 through 384.219.'' This implies that each State must conform their information collection and recordkeeping requirements to what the AAMVAnet specifies is necessary. The FMCSA, however, requires AAMVAnet, as the CDLIS operator under the 1988 designation agreement, to have certain information collected by States with respect to the operation of CDLIS. The numerous pieces of information collected include, but are not limited to, information content and the development of standards relating to access to CDLIS by each State, employer, and employee. Thus, AAMVAnet is acting as a third party in collecting information on behalf of the FMCSA by passing on to each State the information collection requirements specified by the FMCSA as necessary under the 1988 designation agreement.

The FMCSA believes AAMVAnet's CDLIS State Procedures manual should be incorporated by reference to ensure

each State uses it. The Version 2.0 published in October 1998 is the most recent version of the AAMVAnet manual. AAMVAnet plans to update this manual to implement MCSIA amendments to the CDL system. Incorporating the manual by reference, however, should ensure that each State complies with the specific version required by AAMVAnet and the FMCSA.

The FMCSA is providing the public an opportunity to comment on the incorporation by reference of this AAMVAnet manual. In addition, the FMCSA would provide additional opportunity for comment on updates to Version 2.0 before any State would be required to comply with any newer AAMVAnet manual in the future.

Incorporating the AAMVAnet standards by reference allows the FMCSA to comply with the requirements in 5 U.S.C. 552 to publish rules in the **Federal Register** by referring to materials already published elsewhere. Section 552 authorizes incorporation by reference with the approval of the Director of the Federal Register to reduce the volume of material published in the **Federal Register** and the CFR. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. This material, like any other properly issued rule, would then have the force and effect of law.

Substantial Compliance

Each State must comply substantially with 24 specific requirements of the CDL program to avoid the withholding of a certain percentage of Federal highway funds otherwise apportioned for its Surface Transportation Program, National Highway System, and Interstate Maintenance System components. See 49 U.S.C. 31311 and 31314. Section 103(e) of the MCSIA added that if a State does not comply substantially with the 24 specific requirements of the CDL program, a State's entire allocation in supplemental funding which the MCSIA added to the Motor Carrier Safety Assistance Program (MCSAP) might be withheld by FMCSA. The requirement to adopt and enforce the disqualifications applicable to a CDL holder who is convicted of serious offenses in a non-CMV was added by section 202(h) of the MCSIA and codified at 49 U.S.C. 31311(a)(20). This requirement adds another condition necessary for states to achieve substantial compliance with the CMVSA of 1986. The FMCSA understands the complexity of revising State statutes and establishing procedures to incorporate the new requirements into existing systems. The FMCSA, therefore, proposes to set a deadline of 3 years after the effective date of this rule for states to achieve substantial compliance with these requirements.

Section Analysis

Section 383.5 Definitions

The FMCSA proposes to revise the current definition of ''Disqualification'' in § 383.5 to clarify the original intent that disqualification of a CDL holder is only required for driver convictions related to motor vehicle traffic control offenses.

The FMCSA proposes to remove current paragraph (c) that automatically disqualifies a driver from operating a CMV upon conviction of any offense listed in § 383.51. The current paragraph (c) conflicts with standard adjudication practices in most states. Convicting and disqualifying a driver generally involves two separate processes administered by two separate agencies. In most cases, only a court has the authority to convict the driver, while the State licensing agency has the separate authority to suspend, revoke, or cancel the driver's license based upon the court conviction. In addition, a driver has the right to appeal a conviction. Pending the decision of the appellate court, the effect of the conviction is stayed. The conviction, therefore, is not posted by the State licensing agency and no disqualifying action is taken. This conflicts with paragraph (c) of the current definition of *Disqualification.* Moreover, disqualifying a driver who had filed an appeal, in defiance of a court order staying the conviction, would bring a State licensing agency into serious conflict with the judicial system. Appeals are not the only source of delay. A driver can be convicted of an offense listed in § 383.51—and thus automatically disqualified from driving a CMV for a certain period after that date—but the court may fail to notify the State licensing agency of that fact, usually because the court system and licensing agency have not perfected their electronic data transfer systems. ''Diversion'' programs are even more serious. In many States, courts suspend a conviction, seal or ''mask'' the driver's record, and purge the conviction completely within some period if no further violations occur. Therefore, the licensing agencies, and thus motor carriers, sometimes learn of a driver's conviction (if at all) only after the disqualification period automatically started by current paragraph (c) is completed. Removal of paragraph (c) will correct some of these problems. As discussed earlier in this document under the heading ''Non-CMV Offenses,'' the FMCSA will address related issues in an NPRM (RIN 2126–AA60) to be published in the **Federal Register** in the future.

The original intent of the CMVSA and its implementing regulations in parts 383 and 384 was to require the disqualification of a CDL holder only for convictions related to motor vehicle traffic control offenses. In fact, however, States have begun to suspend CDLs for failure to pay child support, failure to pay parking tickets, and other matters not directly related to unsafe or criminal behavior in a CMV. In order to restore the original intent of the CMVSA, new paragraph (b) in the definition of *Disqualification* would include ''any withdrawal of a person's privileges to drive a CMV by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).'' The phrase ''motor vehicle traffic control'' is taken directly from the CMVSA. The FMCSA recognizes that driving while under the influence of alcohol or controlled substances may not be a ''motor vehicle traffic control'' offense in the same way as speeding or illegal lane changes, but Congress used that phrase in the CMVSA and clearly intended drug-and alcohol-related offenses to be covered by the CDL disqualification regulations.

This change would not prevent States from including in CDLIS or NHTSA's National Driver Register (NDR)—which also depends on a distributed database—driver convictions and disqualifications for offenses that are not related to motor vehicle traffic control, should they wish to do so.

We are proposing to add to § 383.5 a new definition for ''non-CMV.'' A non-CMV would be any motor vehicle or combination of motor vehicles not covered by the definition of a CMV in Part 383.

Section 383.51 Disqualification of Drivers

The FMCSA would revise the entire section by using an if-then table format that we believe is more readily understandable than the current regulatory text. The FMCSA would also propose to reserve rows within the table for the proposal to be published in the **Federal Register** in the near future under RIN 2126–AA60.

The revised § 383.51 would combine the non-CMV and CMV convictions of CDL holders for the original offenses under the CMVSA and other offenses

added in subsequent statutory amendments. In addition, the FMCSA would clarify that a person who operates a CMV must obtain a CDL and is subject to the same disqualifications. This circumstance has always been clear to States and the FMCSA, but employers and drivers have frequently misunderstood this point.

While the MCSIA addresses the type of offenses that must result in a disqualification, it is silent regarding the length of the CMV disqualification. The Congress included both the type of offense and the length of the CMV disqualification in the CMVSA and each of the previous amendments before 1999. The MCSIA, however, only requires that the disqualification period be no longer than for the same or similar offenses that occur while operating a CMV. The FMCSA proposes that CDL holders convicted of serious traffic violations and other offenses in either a non-CMV or a CMV serve the same period of disqualification. The FMCSA invites the public to comment.

Although current regulations disqualify a CDL holder convicted of driving a CMV with an alcohol concentration of 0.04 percent or more [§ 383.51(b)(2)(i)(A)], that standard would not be included in the list of alcohol-related disqualifying offenses committed while operating a non-CMV. The reasons are explained earlier in the preamble section under the heading ''Non-CMV Alcohol Offenses.''

The FMCSA is also proposing to add railroad-highway grade crossing violations in a non-CMV as a serious traffic violation, as permitted by 49 U.S.C. 31301(12)(G) and 31310(g). See the discussion of the rationale for this proposal earlier in this preamble under the heading ''Non-CMV Railroad-Highway Grade Crossing Violations.''

Paragraph (f) would be recodified as § 384.203 paragraphs (b) and (c). The FMCSA would also make conforming amendments by correcting § 383.51 cross-references in §§ 383.3(f)(3)(i)(C), 383.53(b), 383.72, 383.77, 384.215, 384.217, 384.218, 384.219, 384.224, and cross references in the two definitions of the term ''driving a CMV'' in §§ 383.5 and 390.5.

Sections 383.71 Driver Application Procedures and 383.73 State Procedures

Section 383.71(a)(6) requires self-certification, and § 383.73(a)(3) requires each State to check, that a CDL applicant is not subject to any disqualification, revocation, or cancellation ''as contained in § 383.51.'' The FMCSA regulatory interpretation for § 383.73, Question 3, published in the **Federal Register** on April 4, 1997 (62 FR 16396) provides a question and answer that reads as follows:

> To what does the phrase ''* * * as contained in § 383.51'' refer to in § 383.73(a)(3)?
>
> *Guidance:* The phrase refers only to the word ''disqualification.'' Thus the State must check the applicant's record to ensure that he/she is not subject to any suspensions, revocations, or cancellations for any reason, and is not subject to any disqualifications under § 383.51.

In the phrase ''any disqualification, revocation, or cancellation as contained in § 383.51'' the phrase ''as contained in § 383.51'' was intended to modify only the word ''disqualification.'' The FMCSA has no authority to suspend, revoke, or cancel a driver's CDL. The agency therefore proposes to amend §§ 383.71(a)(6) and 383.73(a)(3) to refer to ''any disqualification under § 383.51, or any license suspension, revocation, or cancellation under State law * * *''

Section 384.107 Matter Incorporated by Reference

The FMCSA is proposing to incorporate by reference the AAMVAnet publication under § 384.231(d) *Recordkeeping requirements.* See the section analysis for § 384.231 for a complete description of the document and the reasons the FMCSA is proposing its incorporation.

Section 384.203 Driving While Under the Influence

The FMCSA would amend this section to re-codify § 383.51(f) *Substantial compliance by States* at this location. Paragraph (f) fits more appropriately with § 384.203. Both concern the 0.04 alcohol concentration standard and the State substantial compliance issue.

Section 384.222 Violation of Out-of-Service Orders

This section would be added to require each State to have and enforce all necessary laws and regulations applicable to drivers of CMVs and their employers who violate out-of-service orders, which meet the minimum requirements of §§ 383.51(e), 383.37(c), and 383.53(b).

Part 384, State Compliance with Commercial Driver's License Program, was created by an FHWA final rule published on May 18, 1994 [59 FR 26029]. States were not required to disqualify drivers convicted of violating out-of-service (OOS) orders because, according to the preamble, the FHWA ''has not yet issued a final rule'' on that subject. However, § 384.222 was reserved for such a State requirement when the rule prohibiting violation of OOS orders was completed. In fact, a second final rule which did exactly that was published the same day in the same issue of the **Federal Register** [May 18, 1994, 59 FR 26022] and codified at § 383.51(d). Because of this error, the State requirement to disqualify violators of OOS orders has never been added to § 384.222. The FMCSA is now proposing to correct that oversight.

Section 384.224 Noncommercial Motor Vehicle Violations

As required by section 202(h) of the MCSIA, the FMCSA proposes a new section that would require the States to adopt and enforce the sanctions that are applicable to holders of CDLs who are convicted of offenses in a non-CMV.

Section 384.231 Satisfaction of State Disqualification Requirements

All paragraphs would be amended be replacing the word ''shall'' with the word ''must.''

The FMCSA would amend paragraph (a) by including cross references to the disqualifications resulting from railroad-highway grade crossing violations added to § 384.223 by a final rule published in 64 FR 48104, September 2, 1999, and the proposed §§ 384.222 and 384.224 in this document.

Paragraph (b)(2) would be amended by removing the May 18, 1997, compliance date from the heading of the paragraph. The FMCSA also proposes replacing the undefined term ''non-CDL holder'' with ''a person required to have a CDL'' within the heading and body of paragraph (b)(2). The intent of this paragraph was to require each State to disqualify any person required to have a CDL who was convicted of a disqualifying offense under § 383.51. The term ''non-CDL holder,'' however, could include a person who is not even required to have a CDL. The FMCSA would correct this potential problem. Paragraph (d) would be amended to incorporate by reference the AAMVAnet State Procedures Manual. This paragraph does not clearly state that the FMCSA imposes recordkeeping requirements upon AAMVAnet, its designated CDLIS operator, and that each State must conform its recordkeeping information systems to the AAMVAnet system manuals. Each State licensing agency has a copy of the most recent version of the CDLIS State Procedures Manual. A copy of the 1998 CDLIS State Procedures Manual is in the public docket.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this regulatory action is not significant within the meaning of Executive Order 12866. The FMCSA has determined this proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order.

This regulatory action also is not significant under the regulatory policies and procedures of the DOT (44 FR 11034, February 26, 1979). The FMCSA believes a full Regulatory Evaluation is unnecessary under paragraph 10e of the regulatory policies and procedures of DOT, because the economic impact of this rule will be minimal.

Estimated Costs

The FMCSA believes the costs of this rule include the following:

1. Information system implementation, modification, and maintenance costs to state government agencies.

2. Labor costs to the state government agencies to handle new data collection and processing.

3. Wage losses (costs) to CDL holders who are suspended or disqualified for committing the new serious traffic violations and disqualifying offenses addressed under this proposed rule.

First-year costs for this proposed rule should total approximately $1.73 million (present value); most of these are for information system developments and modifications by state government agencies. The FMCSA obtained these first-year cost estimates by extrapolating results of an AAMVAnet survey of State motor vehicle administrations on the potential implementation costs of MCSIA. AAMVAnet conducted the survey in 2000. AAMVAnet results are based on data from nine States. The FMCSA used the AAMVAnet survey estimates and calculated the costs to all fifty states and the District of Columbia. A copy of the AAMVAnet report is in the docket.

Total costs occurring between 2004 and 2013 are estimated at $168.7 million (present value); most of these costs are wages lost by CDL holders who would be suspended or disqualified from this proposal's implementation. FMCSA estimates that an average of 9,661 CMV drivers would have their CDLs revoked, suspended, or canceled (withdrawals) annually because of this proposal. In an analysis conducted for the FMCSA using data from the FHWA Study, TML estimated that in calendar year 2000 there were approximately 38,643 CDL withdrawals required by 49 U.S.C. 31310 and 49 CFR 383.51 (CMVSA-required withdrawals). Also, using sample data from the CDLIS for the Commercial Driver's License Effectiveness Study, TML estimated that of all the out-of-state CDL convictions logged, 49 percent noted that the CDL holder was either not operating a CMV at the time of the citation, or that the type of vehicle being driven was not known (e.g., not marked on the citation). For in-state CDL convictions, the ratio of CDL holders either not driving a CMV at the time of the citation, or having an ''unknown'' status, was even higher, at 88 percent.

For the purposes of estimating the number of ''new'' CDL withdrawals resulting from this proposal, the FMCSA used a conservative estimate. The FMCSA estimated that annual CMVSA-required withdrawals of CDL holders would increase by 25 percent (or by 9,661 CDL holders annually). The FMCSA conducted an analysis of CDLIS data from the Commercial Drivers License Effectiveness Study on the distribution of convictions for various serious traffic violations (e.g., excessive speeding) and disqualifying (e.g., alcohol-related) offenses and data on the disqualification periods defined for each under § 383.51. Based on this analysis, the FMCSA estimates that the average disqualification period per CDL holder would be 317 days.

The unemployment rate was 4.2 percent in January 2001 and the FMCSA estimates the driver shortage in the motor carrier industry to be 80,000. The FMCSA estimates that those CDL holders who would be disqualified because of this proposal would quickly find alternative work within the industry (or in closely-related industries), albeit at a 10-percent reduction in hourly wages. All the estimates discussed here were used to calculate the wage reduction costs to the 9,661 CDL holders annually disqualified, for an average of 317 days, over the 10-year analysis period.

The FMCSA estimates the total cost of this proposal to industry and government agencies to be approximately $170.4 million (present value) over the ten-year analysis period from 2004 through 2013, using a discount rate of 7 percent.

Estimated Benefits

The primary societal benefits from this proposal are the CMV-related crashes expected to be avoided when high-risk CDL holders are disqualified. Effectively, CDL holders who are convicted of serious traffic violations and disqualifying offenses (as defined under § 383.51) while operating a non-CMV will now have their CDL suspended or withdrawn or be disqualified because of this rule.

The FMCSA estimates conservatively that, on average, approximately 9,661 CDL holders are likely to be disqualified annually between the years 2004 and 2013 if this proposal is made effective. The FMCSA believes no disqualifications would occur in the first full year of implementation since no State would be held to the standard until 2004. Table VM–1 in the FHWA's Highway Statistics 1999 publication contains data on the number of combination trucks registered (e.g., those likely driven by CDL holders) in the United States and the vehicle-miles-traveled (VMT) by these vehicles in 1999. A copy of Table VM–1 is in the docket. A copy is also available on the Internet at. *htt://www.fhwa.dot.gov./ohim/hs99/tables/vm1.pdf.*

The average distance traveled in 1999 per combination truck was 65,261 miles. The FMCSA estimated one driver per vehicle, an average of 9,661 CDL disqualifications each year, and an average disqualification period of close to one year (specifically, 317 working days within 365 calendar days). Using these conditions, the FMCSA estimated the total VMT foregone in combination trucks by these CDL holders would be 630.5 million miles in each year from 2004 through 2013. The involvement rate in police-reported crashes for combination unit trucks is 225.32 per 100 million VMT based on ''The Dimensions of Motor Vehicle Crash Risk'' by Wang, Knipling, and Blincoe (Journal of Transportation and Statistics, Volume 2, Number 1, BTS Journal, 1999). A copy is in the docket. A copy is also available on the Internet at. *htt://www.bts.gov./jts/V2N1/3wang.pdf.* Using this data, the FMCSA estimates the initial crash reduction benefit of this proposal to be 1,422 CMV-related crashes per year (e.g., 630.5 million VMT times 225.32 crashes per 100 million VMT).

The FMCSA believes CMV operators who have been disqualified are likely to find alternative work within the motor carrier industry or closely related industries. Many of these drivers would switch to driving vehicles not specifically defined as CMVs in § 383.5 (and thus not requiring a CDL). Since many of these drivers will continue to face exposure to motor vehicle crashes, the FMCSA's initial crash reduction benefit estimate should be reduced. For the purposes of this analysis, the

FMCSA conservatively estimated that two-thirds of disqualified CDL holders would continue to drive as some part of their alternative employment, so that only one-third would eliminate their crash exposure during the 317-day disqualification period. The number of CMV-related crashes avoided resulting from this proposal would be about 474 per year (or one third of the original 1,422 CMV-combination-related crashes).

The FMCSA estimates no reduction in CMV-related crashes during the first year of implementation (2004). Therefore, the FMCSA expects that at least 474 CMV-related crashes will be avoided annually during the years 2004 through 2013 because of the additional CDL holder disqualifications. The FMCSA used a recent comprehensive study to estimate the costs of highway crashes involving large trucks and buses by severity. In Zaloshnja, E., Miller, T., and Spicer, R., ''The Costs of Large Truck- and Bus-Involved Crashes,'' FMCSA, December 14, 2000, they estimated that the average cost of all police-reported crashes (i.e., fatal, injury, and property-damage-only (PDO) crashes) involving trucks with a gross weight rating of more than 10,000 pounds is $75,637 (in 1999 dollars). A copy of the study by Zaloshnja, et al. is in the docket. A copy of the study is also available on the Internet at: *htt://ai.volpe.dot.gov./CarrieResearchResults/CarrierResearchResults.asp?file=PDFs/CCT FinalReport.pdf*

The average cost per large truck crash involving a fatality is $3.54 million, for crashes involving injuries $217,000, and for those involving property damage only $11,300. The FMCSA adjusted these average costs to year 2000 dollars using the Consumer Price Index to yield $3.66 million per fatal crash, $224,378 per injury-related crash, and $11,684 per property-damage-only (PDO) crash. The Large Truck Crash Profile Study (1999) indicates that fatal crashes represented one percent of all truck-related crashes in 1999, injury-related crashes represented 21 percent, and PDO crashes represented the remaining 78 percent. A copy of a report entitled ''Trends in Motor Vehicle Crashes; Fatal Crashes 1975–1999 Injury and Property-Damage-Only Crashes 1988–1999'' (December 2000) is in the docket. It has the same data as the Large Truck Crash Profile Study. Using this information, the FMCSA estimates annual (unadjusted) crash reduction benefits from this proposal to be approximately $44 million using 474 crashes avoided.

The FMCSA estimates total 2004 through 2013 CMV-related crash reduction benefits from this proposal to equal $268 million (present value), using a discount rate of 7 percent. Examining the total (present value) costs of this proposal, equal to $170.4 million, this proposal's implementation yields a net benefit of $97.6 million over the 10-year analysis period from 2004 through 2013.

The FMCSA invites you to submit comments to the docket about these cost and benefit estimates.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has considered whether this proposal would have a significant economic impact on a substantial number of small entities. We have determined that such entities would not be adversely affected by this rule, either in absolute terms or relative to larger carriers. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

In the motor carrier industry, the Small Business Administration (SBA) defines small entities as those firms earning less than $18.5 million in gross receipts annually. The FMCSA examined U.S. Census Bureau data from the 1997 Economic Census, in particular the revenue size of firms in the ''General Freight Trucking'' sector (North American Industry Classification System Code 4841). The vast majority of firms represented in the sample fall below the SBA annual revenue threshold. While these small entities represent over 90 percent of the firms in the sample, they employ roughly 58 percent of the workers.

The primary focus of this proposal is to improve motor carrier safety by expanding the list of serious traffic violations and other offenses for which a CDL holder can be disqualified to those occurring in non-CMVs. The proposal potentially affects all active CDL holders (estimated from 3.2 million to 8.3 million, with a midpoint of 5.75 million), since all would be subject to the proposal. The 3.2 million CDL holders comes from an estimate of ''active'' CDL holders reported for calendar year 1999 in the FMCSA's 1999 Drug & Alcohol Survey, OMB No. 2126–0012. This sample-based survey measures the percentage of CDL holders that test positive for controlled substances and/or alcohol, but in so doing, provides a count of CDL holders who have been employed as a driver and operated a CMV within the past year, and therefore provides an estimate of the number of ''active'' CDL holders nationwide.

The *CDL Effectiveness Study* reported 8.3 million CDL holder records in the CDLIS. Please note that the number of ''records'' will not match the number of ''current'' or ''active'' CDL holders operating a CMV, since there are many CDL holders who have other jobs as their primary employment. Examples include those workers employed in non-driving positions within trucking companies, and those CDL holders, presumably owner-operators, who may suspend operation of CMV services and take alternative employment outside of the trucking industry. The CDLIS does not differentiate among these different types of CDL holders, so one must be cautious when examining this total number of CDL holders within CDLIS. The FMCSA invites the public to comment on whether the agency should use the median of 5.75 million active CDL holders this proposal will potentially affect.

The FMCSA does not currently have evidence that CDL holders employed by small entities are more likely to be disqualified under this rule than those employed by larger entities. Lastly, the number of new driver disqualifications expected annually from this proposal (approximately 9,661) represents only one-tenth to three-tenths of one percent of all active CDL holders (depending on the specific estimate of active CDL records used). Therefore, the number of CDL holders likely to be disqualified annually because of this proposal is very small and should keep it from adversely affecting any entity, large or small.

Therefore, the FMCSA, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has considered the economic impacts of these requirements on small entities and certifies that this rule would not have a significant economic impact on a substantial number of small entities. Comments on this conclusion are welcome and should be submitted to the docket.

Unfunded Mandates Reform Act of 1995

This proposal would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, taken together, or by the private sector, of $100 million or more in any one year over the period analyzed. (2 U.S.C. 1531 *et seq.*).

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed

action is not economically significant and does not concern an environmental risk to health or safety that would disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). The MCSIA requires this rulemaking action. Consultation with States is not required when a rule is required by statute. The FMCSA, however, has determined that this action would not have significant Federalism implications or limit the policymaking discretion of the States. Comments on this conclusion are welcome and should be submitted to the docket.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this action, if promulgated as a final rule, would have an impact upon an existing currently approved information collection.

The information collection requirements relating to Commercial Driver Licensing and Test Standards have been approved by OMB and assigned the OMB control number 2126–0011. This proposed action would require AAMVAnet to amend its state procedures manual to add one additional data element: whether the driver's license is a CDL.

Many States have implemented former AAMVAnet state procedure manual requirements by requiring police officers within those States to note on traffic citations whether a motor vehicle is a CMV. The FMCSA believes States would implement a similar requirement in response to an AAMVAnet amendment resulting from sections 201(b) and 202(h) of the MCSIA and this rulemaking.

The FMCSA estimates that between 2,840,000 and 3,160,000 traffic citations are issued annually to CDL holders. It would take an enforcement official approximately 2 seconds to record the additional data element. Adding the data element would increase the current time burden estimate by 1578 to 1756 hours [(2,840,000 to 3,160,000 citations) (2 seconds) = (5,680,000 to 6,320,000 sec.) / 3600 sec./hr. = 1578 to 1756 hr.], resulting in a revised estimated annual time burden of 691,877 to 692,055 hours.

OMB Control Number: 2126–0011.

Title: Commercial Driver Licensing and Test Standards.

Affected Public: Each State government, the District of Columbia government, and approximately 500,000 motor carriers using approximately 10 million drivers who operate CMVs in interstate and intrastate commerce.

Estimated Annual Hour Burden: 1,578 to 1,756 burden hours.

The FMCSA believes these proposed requirements meet the principles of the Paperwork Reduction Act of 1995 by ensuring—

(1) The information collection is the least burdensome necessary for the proper performance of the FMCSA's safety and licensing mandates.

(2) The information collection does not duplicate information collected by other agencies.

(3) The information collection has practical utility. The FMCSA has sought to minimize the cost to itself of collecting, processing, and using the information, but would not accomplish this by shifting disproportionate costs or burdens onto the public.

The FMCSA seeks public comment on this proposed information collection requirement. Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to:

(1) Evaluating whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical use;

(2) Evaluating the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhancing the quality, usefulness, and clarity of the information to be collected; and

(4) Minimizing the burden of collection of information on those who are to respond, including using appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, such as permitting electronic submission of responses.

National Environmental Policy Act

The agency has analyzed this proposal for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined under DOT Order 5610.1C (September 18, 1979) that this action does not require any environmental assessment.

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Commercial driver's license, Commercial motor vehicles, Drug abuse, Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Commercial driver's license, Commercial motor vehicles, Drug abuse, Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, the FMCSA proposes to amend title 49, Code of Federal Regulations, chapter III, parts 383, 384, and 390 as set forth below:

PART 383—[AMENDED]

1. Revise the authority citation for 49 CFR part 383 to read as follows:

Authority: 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.73.

2. Amend § 383.3(f)(3)(i)(C) by revising the cross-reference ''§ 383.51(b)(2)'' to read ''§ 383.51''.

3. Amend § 383.5 to revise the definitions for ''Disqualification'' and ''Driving a commercial motor vehicle

while under the influence of alcohol,'' to add a definition for ''Non-CMV,'' and to place the definitions in alphabetical order, to read as follows:

§ 383.5 Definitions.

* * * * *

Disqualification means any of the following three actions:

(1) The suspension, revocation, or cancellation of a CDL by the State of issuance.

(2) Any withdrawal of a person's privileges to drive a CMV by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

(3) A determination by the FMCSA that a person is no longer qualified to operate a commercial motor vehicle under part 391 of this chapter.

* * * * *

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 383.51(b) or § 392.5(a)(2) of this subchapter.

* * * * *

Non-CMV means a motor vehicle or combination of motor vehicles not defined by the term ''commercial motor vehicle (CMV)'' in this section.

* * * * *

4. Revise § 383.51 to read as follows:

§ 383.51 Disqualifications of drivers.

(a) *General.* (1) A driver or holder of a CDL who is disqualified must not drive a CMV.

(2) An employer must not knowingly allow, require, permit, or authorize a driver who is disqualified to drive a CMV.

(3) A driver is subject to disqualification sanctions designated in paragraphs (b), (c), and (d) of this section, if the driver drives a CMV or non-CMV and is convicted of the violations.

(4) *Determining first and subsequent violations.* For purposes of determining first and subsequent violations of the offenses specified in this subpart, each conviction for any offense listed in each Table in this section resulting from a separate incident, whether committed in a CMV or non-CMV, must be counted.

(5) *Reinstatement after lifetime disqualification.* A State may reinstate any driver disqualified for life for offenses described in paragraphs (b)(1) through (b)(6) of this section (Table 1) after 10 years if that person has voluntarily entered and successfully completed an appropriate rehabilitation program approved by the State. Any person who has been reinstated in accordance with this provision who is subsequently convicted of a disqualifying offense described in paragraphs (b)(1) through (b)(6) of this section (Table 1) must not be reinstated.

(6) *Non-CMV enforcement.* A State may apply the disqualification sanctions required by paragraph (b)(3) of this section (Table 1) to convictions of a CDL holder who operates a non-CMV with an alcohol concentration of 0.04. Note, however, that the State is not required to do so.

(b) *Disqualification for major offenses.* Table 1 to § 383.51 of this subpart contains a list of the offenses and period for which a driver must be disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

TABLE 1 TO § 383.51

If a driver operates a motor vehicle and—	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for—	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a second conviction or refusal to be tested in a separate incident of any offense in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a second conviction or refusal to be tested in a separate incident of any offense in this Table while operating a CMV or a non-CMV, a CDL holder must be disqualified from operating a CMV for—
(1) Is under the influence of alcohol as prescribed by state law.	1 year	1 year	3 years	Life	Life.
(2) Is under the influence of a controlled substance.	1 year	1 year	3 years	Life	Life.
(3) Has an alcohol concentration of 0.04 or greater while operating a CMV.	1 year	Not applicable	3 years	Life	Not applicable.
(4) Refuses to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in § 383.72.	1 year	1 year	3 years	Life	Life.
(5) Leaves the scene of an accident.	1 year	1 year	3 years	Life	Life.
(6) Uses the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this section.	1 year	1 year	3 years	Life	Life.

TABLE 1 TO § 383.51—Continued

If a driver operates a motor vehicle and—	For a first conviction or refusal to be tested while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a first conviction or refusal to be tested while operating a non-CMV, a CDL holder must be disqualified from operating a CMV for—	For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials required to be placarded under the Hazardous materials Regulations (49 CFR part 172, subpart F), a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a second conviction or refusal to be tested in a separate incident of any offense in this Table while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a second conviction or refusal to be tested in a separate incident of any offense in this Table while operating a CMV or a non-CMV, a CDL holder must be disqualified from operating a CMV for—
(7) [Reserved].					
(8) [Reserved].					
(9) Uses the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.	Life—not eligible for 10-year reinstatement.

(c) *Disqualification for serious traffic violations.* Table 2 to § 383.51 contains a list of the offenses and the periods for which a driver must be disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

TABLE 2 TO § 383.51

If the driver operates a motor vehicle and—	For a second conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV, a pereson required to have a CDL must be disqualified from operating a CMV for—	For a second conviction of any offsense in this Table in a separate incident within a 3-year period while operating a CMV or non-CMV, a CDL holder must be disqualified from operating a CMV for—	For a third or subsequent conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL must be disqualified from operating a CMV for—	For a third or subsequent conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV or non-CMV, a CDL holder must be disqualified from operating a CMV for—
(1) Speeds excessively, involving any speed of 24.1 kmph (15 mph) or more above the posted speed limit.	60 days	60 days	120 days	120 days.
(2) Drives recklessly, as defined by State or local law or regulation, including but not limited to offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property.	60 days	60 days	120 days	120 days.
(3) Makes improper or erratic traffic lane changes.	60 days	60 days	120 days	120 days.
(4) Follows the vehicle ahead too closely.	60 days	60 days	120 days	120 days.
(5) Violates State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident.	60 days	60 days	120 days	120 days.

(d) *Disqualification for railroad-highway grade crossing offenses.* Table 3 to § 383.51 contains a list of the offenses and the periods for which a driver must be disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

TABLE 3 TO § 383.51

If the driver operates a motor vehicle in violation of a federal, state or local law and—	For a first conviction while operating a CMV, a person required to have a CDL must be disqualified from operating a CMV for—	For a first conviction while operating a CMV or non-CMV, a CDL holder must be disqualified from operating a CMV for—	For a second conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL must be disqualified from operating a CMV for—	For a second conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV or non-CMV, a CDL holder must be disqualified from operating a CMV for—	For a third or subsequent conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL must be disqualified from operating a CMV for—	For a third or subsequent conviction of any offense in this Table in a separate incident within a 3-year period while operating a CMV or non-CMV, a CDL holder must be disqualified from operating a CMV for—
(1) The driver is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.
(2) The driver is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.
(3) The driver is always required to stop, but fails to stop before driving onto the crossing.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.
(4) The driver fails to have sufficient space to drive completely through the crossing without stopping.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.
(5) The driver fails to obey a traffic control device or the directions of an enforcement official at the crossing.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.
(6) The driver fails to negotiate a crossing because of insufficient undercarriage clearance.	No less than 60 days	No less than 60 days	No less than 120 days ...	No less than 120 days ...	No less than 1 year	No less than 1 year.

(e) *Disqualification for violating out-of-service orders.* Table 4 to § 383.51 contains a list of the offenses and periods for which a driver must be disqualified when the driver is operating a CMV at the time of the violation, as follows:

TABLE 4 TO § 383.51

If the driver operates a CMV and—	For a first conviction while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—	For a second conviction in a separate incident within a 10-year period operating a CMV, a person required to have a CDL and a holder must be disqualified from operating a CMV for—	For a third or subsequent conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for—
(1) Violates a driver or vehicle out-of-service order while transporting nonhazardous materials.	No less than 90 days or more than 1 year.	No less than 1 year or more than 5 years.	No less than 3 years or more than 5 years.
(2) Violates a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under part 172, subpart F of this title.	No less than 180 days or more than 2 years.	No less than 3 years or more than 5 years.	No less than 3 years or more than 5 years.
(3) Violates a driver or vehicle out-of-service order while operating a vehicle designed or used to transport 16 or more passengers, including the driver.	No less than 180 days or more than 2 years.	No less than 3 years or more than 5 years.	No less than 3 years or more than 5 years.

5. Amend § 383.53(b)(1) by revising the cross-reference ''§ 383.51(d)'' to read ''§ 383.51(e)''.

6. Revise § 383.71(a)(6) to read as follows:

§ 383.71 Driver application procedures.

(a) * * *

(6) Certify that he/she is not subject to any disqualification under § 383.51, or any license suspension, revocation, or cancellation under State law, and that he/she does not have a driver's license from more than one state or jurisdiction.

* * * * *

7. Amend § 383.72 by revising the cross-reference ''§ 383.51(b)(2)(i)'' to read ''§ 383.51(b)''.

8. Revise the introductory text of paragraph (a)(3) in § 383.73 to read as follows:

§ 383.73 State procedures.

(a) * * *

(3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification under § 383.51, or any license suspension, revocation, or cancellation under State law, and that the person does not have a driver's license from more than one State or jurisdiction. The record check must include, but not be limited to the following:

* * * * *

9. Amend § 383.77(a)(3) by revising the cross-reference ''§ 383.51(b)(2)'' to read ''§ 383.51(b)''.

PART 384—[AMENDED]

10. Revise the authority citation for 49 CFR part 384 to read as follows:

Authority: 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.73.

11. Add § 384.107 to subpart A to read as follows:

§ 384.107 Matter incorporated by reference.

(a) *Incorporation by reference.* This part includes references to certain matter or materials. The text of the materials is not included in the regulations contained in this part. The materials are hereby made a part of the regulations in this part. The Director of the Federal Register has approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For materials subject to change, only the specific version approved by the Director of the Federal Register and specified in the regulation are incorporated. Material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the **Federal Register**.

(b) *Materials incorporated.* The AAMVAnet, Inc.''s ''Commercial Driver's License Information System (CDLIS) State Procedures,'' Version 2.0, October 1998.

(c) *Addresses.* (1) All of the materials incorporated by reference are available for inspection at:

(i) The Department of Transportation Library, 400 Seventh Street, SW, Washington, DC 20590 in Room 2200. These documents are also available for inspection and copying as provided in 49 CFR part 7.

(ii) The Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

(2) Information and copies of all of the materials incorporated by reference may be obtained by writing to: American Association of Motor Vehicle Administrators, Inc., 4301 Wilson Blvd, Suite 400, Arlington, VA 22203.

12. Revise § 384.203 to read as follows:

§ 384.203 Driving while under the influence.

(a) The State must have in effect and enforce through licensing sanctions the disqualifications prescribed in § 383.51(b) of this subchapter for driving a CMV with a 0.04 alcohol concentration.

(b) Nothing in this section shall be construed to require a State to apply its criminal or other sanctions for driving under the influence to a person found to have operated a CMV with an alcohol concentration of 0.04, except licensing sanctions including suspension, revocation, or cancellation.

(c) A State that enacts and enforces through licensing sanctions the disqualifications prescribed in § 383.51(b) of this subchapter for driving a CMV with a 0.04 alcohol concentration and gives full faith and credit to the disqualification of CMV drivers by other States shall be deemed in substantial compliance with section 12009(a)(3) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31311(a)).

13. Revise § 384.215(a) to read as follows:

§ 384.215 First offenses.

(a) *General rule.* The State must disqualify from operating a CMV each person who is convicted, as defined in § 383.5 of this subchapter, in any State or jurisdiction, of a disqualifying offense specified in § 383.51(b)(1) through (6) of this subchapter, for no less than one year.

* * * * *

14. Revise § 384.216 to read as follows:

§ 384.216 Second offenses.

(a) *General rule.* The State must disqualify for life from operating a CMV each person who is convicted, as defined in § 383.5 of this subchapter, in any State or jurisdiction, of a subsequent offense as described in § 383.51(b) of this subchapter.

(b) *Special rule for certain lifetime disqualifications.* The State where the disqualified driver resides after 10 years of disqualification have elapsed may reduce the lifetime disqualification of a person disqualified for life under § 383.51(b) of this subchapter, to a minimum of ten years in accordance with § 383.51(a)(5) of this subchapter.

15. Revise § 384.217 to read as follows:

§ 384.217 Drug offenses.

The State must disqualify from operating a CMV for life each person who is convicted, as defined in § 383.5 of this subchapter, in any State or jurisdiction, of using a CMV in the commission of a felony described in § 383.51(b)(9) of this subchapter. The State shall not apply the special rule in § 384.216(b) to lifetime disqualifications imposed for controlled substance felonies as detailed in § 383.51(b)(9) of this subchapter.

16. Revise § 384.218 to read as follows:

§ 384.218 Second serious traffic violation.

The State must disqualify from operating a CMV for a period of not less than 60 days each person who, in a three-year period, is convicted, as defined in § 383.5 of this subchapter, in any State(s) or jurisdiction(s), of two serious traffic violations involving a CMV operated by such person, as specified in § 383.51(c) of this subchapter.

17. Revise § 384.219 to read as follows:

§ 384.219 Third serious traffic violation.

The State must disqualify from operating a CMV for a period of not less than 120 days each person who, in a three-year period, is convicted, as defined in § 383.5 of this subchapter, in any State(s) or jurisdiction(s), of three serious traffic violations involving a CMV operated by such person, as specified in § 383.51(c) of this subchapter. This disqualification period must be in addition to any other previous period of disqualification.

18. Add § 384.222 to read as follows:

§ 384.222 Violation of out-of-service orders.

The State must have and enforce laws and/or regulations applicable to drivers of CMVs and their employers, as defined in § 383.5 of this subchapter, which meet the minimum requirements of §§ 383.51(e), 383.37(c), and 383.53(b) of this subchapter.

19. Revise § 384.223 to read as follows:

§ 384.223 Railroad-highway grade crossing violation.

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in § 383.5 of this subchapter, which meet the minimum requirements of §§ 383.37(d), 383.51(d), and 383.53(c) of this subchapter.

20. Add § 384.224 to read as follows:

§ 384.224 Noncommercial motor vehicle violations.

The State must have and enforce laws and/or regulations applicable to drivers of CMVs, as defined in § 383.5 of this subchapter, which meet the minimum requirements of § 383.51(b) through (d) of this chapter.

21. Revise § 384.231 to read as follows:

§ 384.231 Satisfaction of State disqualification requirement.

(a) *Applicability.* The provisions of §§ 384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221 through 384.224, and 384.231 apply to the State of licensure of the

person affected by the provision. The provisions of § 384.210 also apply to any State to which a person makes application for a transfer CDL.

(b) *Required action.*—(1) *CDL holders.* A State must satisfy the requirement of this part that the State disqualify a person who holds a CDL by, at a minimum, suspending, revoking, or canceling the person's CDL for the applicable period of disqualification.

(2) *A person required to have a CDL.* A State must satisfy the requirement of this subpart that the State disqualify a person required to have a CDL who is convicted of an offense or offenses necessitating disqualification under § 383.51 of this subchapter. At a minimum, the State must implement the limitation on licensing provisions of § 384.210 and the timing and recordkeeping requirements of paragraphs (c) and (d) of this section so as to prevent such a person from legally obtaining a CDL from any State during the applicable disqualification period(s) specified in this subpart.

(c) *Required timing.* The State must disqualify a driver as expeditiously as possible.

(d) *Recordkeeping requirements.* The State must conform to the requirements of the October 1998 edition of the AAMVAnet, Inc.'s ''Commercial Driver's License Information System (CDLIS) State Procedures,'' Version 2.0. (See § 384.107.) These requirements include the maintenance of such driver records and driver identification data on the CDLIS as the FMCSA finds are necessary to the implementation and enforcement of the disqualifications called for in §§ 384.215 through 384.219, and 384.221 through 384.224.

PART 390—[AMENDED]

22. The authority citation for 49 CFR part 390 continues to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.73.

23. Amend § 390.5 to revise the definition for ''Driving a commercial motor vehicle while under the influence of alcohol'' to read as follows:

§ 390.5 Definitions.

* * * * *

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: Driving a CMV while the person's alcohol concentration is 0.04 or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 383.51(b) or § 392.5(a)(2) of this subchapter.

* * * * *

Issued on: April 23, 2001.

Brian M. McLaughlin,

Acting Deputy Administrator.

[FR Doc. 01–10583 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register
Vol. 66, No. 87
Friday, May 4, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Project; Manti-La Sal National Forest, Emery and Sanpete Counties, Utah

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare Environmental Impact Statement.

Authority: The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4346); Council on Environmental Quality Regulations, Title 40, Code of Federal Regulations, parts 1500–1508 (40 CFR parts 1500–1508); and U.S. Department of Agriculture NEPA Regulations, Part 1b (7 CFR 1b).

SUMMARY: Epidemic populations of spruce beetle are found on the Wasatch Plateau. Many susceptible spruce-fir stands have been infested, and it is anticipated that many more will soon be infested with spruce beetle populations. Obviously, the beetle populations could collapse due to natural factors, but at this time the populations remain viable and continue to spread. Scattered 5–10 tree pockets of spruce beetle caused mortality are present in the south end of the Lake project analysis area and if the current level of beetle activity continues without check, it is probable that most of the spruce-fir component on the Wasatch Plateau would be lost. The beetles have already caused severe impacts on several thousand acres of spruce-fir stands adjacent to and south of the analysis area. As a consequence, most spruce trees over eight inches in diameter in the area to the south are dead or dying. The insects are continuing to move in a northward direction and it is anticipated they will continue to invade, infest, and kill most of the spruce trees eight inches or large in diameter throughout this analysis area, as was the case in the adjacent spruce-fir stands to the south.

The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to salvage dead, insect infested and dying trees, commercially thin live high risk trees, manage natural and prescribed burning, and restock some stands of trees located in the Spring, Rolfson, and the north and south forks of Lake Canyon drainages within the project analysis area. The project area is located on public lands administered by the Ferron/Price Ranger District approximately 20 miles northwest of Huntington, Utah. It is bordered on the north by State highway 31 located in Huntington Canyon, on the west by Skyline Drive, FDR 150, on the east by the Millers Flat road, FDR 014, and on the south at the divide between Rolfson and Staker canyons. The need for the proposal is to:

- Restore and/or maintain composition, structure, and diversity of the landscape by providing for tree species and stand density levels that will improve resistance to insects and disease;
- Facilitate rapid reestablishment of Englemann spruce through replanting of spruce;
- Enhance the aspen communities that are being lost due to conifer invasion/encroachment and lack of natural fire;
- Contribute to a timber source that helps meet National demands for forest products and recover some of the economic loss of the resource from the dead, dying, insect infested and high-risk green trees;
- Improve public safety by removing hazard trees from roadsides and from dispersed camping areas within the project area.

Portions of the Rolfson-Staker Inventoried Roadless Area are located within the analysis area but are not included in the Proposed Action. The No Action is one alternative that will be considered. Additional alternatives will be formulated based on public issues, and response analysis. The proposed action involves harvesting/salvaging approximately 3.4 MMBF (Million Board Feet) of dead, dying, insect infected and high-risk green trees from approximately 783 acres within an analysis area of about 5,000 acres. Harvest of trees would be by both aerial (helicopter) and ground based methods. Of the 783 acres to be treated, about 574 acres (73%) would be by helicopter, and approximately 209 acres (25%) by tractor. Sixty percent of the treated acres (470) are planned for artificial reforestation (hand planting of seedlings) and 40% (323) acres by natural regeneration. Approximately 3.5 miles of road maintenance, and 2 miles of road construction on existing road prisms would be needed for the project. One half mile of the two miles constructed would be reclaimed. The proposed action does not include road construction, reconstruction or logging in the inventoried roadless area.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received on or before June 4, 2001.

ADDRESSES: Send written comments to Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be addressed to Don Fullmer, Ecosystems Staff, Manti-La Sal National Forest, phone (435) 637–2817.

SUPPLEMENTARY INFORMATION: This EIS will tier to the final EIS for the Manti-La Sal National Forest Land and Resource Management Plan (Forest Plan). The Manti-La Sal Forest Plan provides the overall guidance (Goals, Objectives, Standards, and Management Area Direction) to achieve the Desired Future condition for the area being analyzed, and contains specific management area prescriptions for the entire Forest.

The Forest Service is seeking information and comments from Federal, State, and local agencies as well as individuals and organizations that may be interested in, or affected by the proposed action. The Forest Services invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this Notice in the **Federal Register.**

The Ferron/Price Ranger District of the Manti-La Sal National Forest in Emery and Sanpete Counties in the state of Utah would administer the proposed management activities for this analysis.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are: (1) During the scoping process, the next 30 days following publication of this Notice in the **Federal Register**, and (2) during the formal review period of the Draft EIS.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and intentions.

Vermont Yankee Nuclear Power Corp. v. *NRDC, 435* U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts.

City of Angoon v. *Hodel,* 803 F. 2d 1016, 1022 (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft statement. Comments may also address the adequacy of the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3 in addressing these points.

It is projected the final release of the EIS to be March 4, 2002. The Forest Supervisor for the Manti-La Sal National forest is the responsible official for the EIS. After considering the comments, responses, and environmental consequences discussed in the Final Environment Impact Statement, and applicable laws, regulations, and policies a decision by this official will be made regarding the proposal. The reasons for the decision will be documented in a Record of Decision. The Forest Supervisor's office of the Manti-La Sal National Forest is located at 599 West Price River Drive, Price, Utah 84501, phone: 435–637–2817.

Dated: April 27, 2001.

Elaine J. Zieroth,

Forest Supervisor, Manti-La Sal National Forest.

[FR Doc. 01–11213 Filed 5–3–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

I–90 Wilderness Study for the Wenatchee National Forest, Kittitas County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare a Legislative Environmental Impact Statement.

SUMMARY: Title VI of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (also known as the Interstate 90 Land Exchange Act) directed the Secretary of Agriculture to review an area of land comprising approximately 15,000 acres, as generally depicted on an October 1998 map entitled ''Alphine Lakes Wilderness Study Area'', for its suitability for preservation as wilderness. This study is to be completed no later than three years after the date of enactment of the Act. As directed by section 610 of the Interstate 90 Land Exchange Act, the Forest Service is undertaking the I–90 Wilderness Study in accordance with the process outlined in 40 CFR 1506.8. This process includes development of a legislative environmental impact statement (EIS) to provide a basis for the Secretary's recommendations as to suitability of specific lands for wilderness designation by Congress. This is a non-ground disturbing action that may result in a land management allocation change and Wenatchee National Forest Plan amendment. The agency invites written comments on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

ADDRESSES: Submit written comments and suggestions to the Cle Elum Ranger District, Attn: Floyd Rogalski, Project Manager, 803 West 2nd Street, Cle Elum, WA 98922.

FOR FURTHER INFORMATION CONTACT: Floyd Rogalski, Project Manager, Cle Elum Ranger District 803 West 2nd Street, Cle Elum, WA 98922, (509) 674–4411.

SUPPLEMENTARY INFORMATION: The Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105–277, 122 Stat. 2681) included special Title VI legislation known as the Interstate 90 Land Exchange Act of 1998. Section 610 of this act provides that:

> In furtherance of the purposes of the Wilderness Act, if the land exchange directed by this Act is consummated, the area of land comprising approximately 15,000 acres, as generally depicted on a map entitled ''Alpine Lakes Wilderness Study Area,'' dated October 1998, shall be reviewed by the Secretary of Agriculture as to its suitability for preservation as wilderness. The Secretary shall submit a report and findings to the President, and the President shall submit his recommendation to the United States House of Representatives and United States Senate no later than three years after the date of enactment of this Act.

As a result of the passage of this Act, the Forest Service is undertaking the preparation of a legislative EIS to support the recommendation to be made to Congress in accordance with 40 CFR 1506.8. Enactment of the I–90 Exchange Act occurred with the exchange of deeds between the Forest Service and their partners in the exchange, Plum Creek Timber Company, L.P. on December 28, 1999. Accordingly, the EIS and subsequent wilderness recommendations must be presented to Congress no later than December 28, 2002.

The area subject to this study is comprised of Forest Service System lands adjacent to the existing Alpine Lakes Wilderness boundary north of the I–90 corridor on the Cle Elum Ranger District. The major issues that have been identified to date include: the impacts on the mineral potential of the lands in the study area; the impacts to existing recreation uses and to existing special use permittees; identification of those lands having the characteristics that would make them valuable as designated wilderness; and the nature and effect of the management restrictions or opportunities that would exist with respect to any lands allocated as wilderness. Based on these and other issues, a range of alternatives will be

developed to serve as the basis for the recommendation to be made to Congress.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, Tribe, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft legislative EIS. Public open houses to discuss this study are scheduled from 4 to 8 p.m. at the following locations: Monday, May 7, 2001, Snoqualmie Ranger District, 42404 SE North Bend Way, North Bend, Washington; Tuesday, May 8, 2001, Summit Inn, 603 State Route 906, Snoqualmie Pass, Washington; and Thursday, May 10, 2001, Hal Holms Community Center, 201 N. Ruby, Ellensburg, Washington.

The draft legislative EIS is expected to be filed with the Environmental Protection Agency (EPA) and is to be available for public review by October 2001. The comment period on the draft legislative EIS will be 60 days from the date the EPA publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court ruling related to public participation in the environmental review process. First, reviewers of a draft legislative EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Cor.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft legislative EIS stage but that are not raised until after completion of the final legislative EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 60 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final legislative EIS.

To assist the Forest Service is identifying and considering issues and concerns on the proposed action, comments on the draft legislative EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft legislative EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final legislative EIS is schedule to be completed by October 2002. The Forest Service will respond to the comments received during the comment period in the final legislative EIS. These comments will be forwarded to the Congressional committee with jurisdiction over the proposal along with the final legislative EIS and study report.

Dated: April 24, 2001.

Sonny J. O'Neal,

Forest Supervisor.

[FR Doc. 01–11214 Filed 5–3–01; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 4, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 25, 2000, February 16 and March 9, 2001 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 51794, 66 FR 10664 and 14123) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Power Duster
7045–00-NIB–0164
7045–00-NIB–0165
7045–00-NIB–0166

Wipes, White Board
7510–01–454–1159

Service

Microfilming, Commodities Future Trading Commission, 1155 21st Street, Washington, DC.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Patrick T. Mooney,

Director, Pricing and Program Operations.

[FR Doc. 01–11302 Filed 5–3–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 4, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patrick T. Mooney (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action will result in authorizing small entities to furnish the commodities and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Flag, National, Interment
8345–00–656–1432

(An additional 20% of the Governments requirement or 360,000 flags whichever is greater)

NPA: Huntsville Rehabilitation Foundation, Huntsville, Alabama
North Bay Rehabilitation Services, Inc., Rohnert Park, California
Goodwill Industries of South Florida, Inc., Miami, Florida
Mop, Anglematic, Deluxe
M.R. 1038
NPA: The Lighthouse for the Blind, Inc., Seattle, Washington
Brush, Bowl, Toilet w/Caddie
M.R. 1047
NPA: Alabama Industries for the Blind Talladega, Alabama

Services

Base Supply Center Fort Belvoir, Virginia
NPA: Virginia Industries for the Blind Richmond, Virginia
HTML Coding of Forest Health Monitoring USDA, Forest Service, North Central Forest Experiment Station, St. Paul, Minnesota
NPA: North Central Sight Services, Inc. Williamsport, Pennsylvania

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will result in authorizing small entities to furnish the commodities and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following services have been proposed for deletion from the Procurement List:

Services

Acquisition & Distribution of AA-Cell Batteries, Tier AD
6135–00–643–1309
Defense Supply Center—Richmond
Richmond, Virginia
Acquisition & Distribution of 6V Zinc Batteries
6135–00–643–1310
Defense Supply Center—Richmond
Richmond, Virginia

Patrick T. Mooney,

Director, Pricing and Program Operations.

[FR Doc. 01–11304 Filed 5–3–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition; Correction

In the document appearing on page 42901, FR Doc. 99–20291, in the issue of August 6, 1999, in the first column the Committee published a notice of addition to the Procurement List of, among other things, Skin Protectant, Plus, National Stock Number (NSN) 9999–00–NSH–0001. This NSN was later replaced by the NSNs 6505–01–474–7724, 6505–01–474–7707, and 6505–01–474–7343.

Unless limited in the notice, an addition to the Procurement List applies to the total Government requirement for the commodity noted. However, the Committee recently discovered that the addition of Skin Protectant, Plus was based on the requirement for the U.S. Postal Service, Central Florida District only. The addition notice is therefore amended to read:

Skin Protectant, Plus

6505–01–474–7724
6505–01–474–7707
6505–01–474–7343

(Requirement of U.S. Postal Service, Central Florida District only.)

Patrick T. Mooney,

Director, Pricing and Program Operations.

[FR Doc. 01–11303 Filed 5–2–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

[I.D. 043001A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Foreign Fishing Reporting Requirements.

Form Number(s): None.

OMB Approval Number: 0648–0075.

Type of Request: Regular submission.

Burden Hours: 422.

Number of Respondents: 25.

Average Hours Per Response: 6 minutes for an activity or weekly report, 30 minutes per day for joint venture recordkeeping, and 7.5 minutes per day for transport recordkeeping.

Needs and Uses: Foreign fishing activities can be authorized under the

Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et. seq.*). The collection of information from permitted foreign vessels is necessary to monitor vessel activities and location for enforcement purposes. Reports are also necessary for fishery management purposes, monitoring the amounts of fish, if any, permitted vessel harvest or receive from U.S. vessels in joint venture operations.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion, weekly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11319 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 043001C]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Coast Pilot Report.

Form Number(s): NOAA Form 77-6.

OMB Approval Number: 0648–0007.

Type of Request: Regular submission.

Burden Hours: 50.

Number of Respondents: 100.

Average Hours Per Response: 30 minutes.

Needs and Uses: NOAA produces the U.S. Coast Pilot, a series of nine books that supplement marine nautical charts. The Coast Pilot contains information essential to navigators in U.S. coastal and intra-coastal waters but that cannot be shown graphically on charts. The Coast Pilot Report form is offered to the public as a means for recommending changes to the publication.

Affected Public: Individuals and households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 2001

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11320 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–JT–S

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Approval of Triangular Transactions Involving Commodities Covered by a U.S. Import Certificate; Proposed Information Collection

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 3, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection provides a means to authorize approved imports to the U.S. to be transhipped to another destination instead of being imported to the U.S. as approved on the Import Certificate.

II. Method of Collection

Written report.

III. Data

OMB Number: 0694–0009.

Form Number: Not Applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 1.

Estimated Time Per Response: ½ hour per response.

Estimated Total Annual Burden Hours: 1 hour.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 1, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11313 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DT–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Five-Year Record Retention Period; Proposed Information Collection

ACTION: Proposed collection: comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 3, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The increase corresponds with the five year statute of limitations for criminal actions brought under the Export Administration Act of 1979 and predecessor acts, and the five year statute for administrative compliance proceedings. Without this authority, potential violators could discard records demonstrating violations of the EAR prior to the expiration of the five-year statute of limitations.

II. Method of Collection

Recordkeeping.

III. Data

OMB Number: 0694–0096.

Form Number: Not applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 154,816.

Estimated Time Per Response: 10 seconds per response.

Estimated Total Annual Burden Hours: 259.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 1, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11314 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DT–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Procedures for Acceptance or Rejection of a Rated Order; Proposed Information Collection

ACTION: Proposed collection: comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 3, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6883, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The record keeping requirement is necessary for administration and enforcement of delegated authority under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*) and the selective Service Act of 1948 (50 U.S.C. App. 468). Any person (supplier) who receives a priority rated order under DPAS regulation (15 CFR 700) must notify the customer of acceptance or rejection of that order within a specified period of time. Also, if shipment against a priority rated order will be delayed, the supplier must immediately notify the customer.

II. Method of Collection

Written submission.

III. Data

OMB Number: 0694–0092.

Form Number: Not applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 25,000.

Estimated Time Per Response: 1 to 15 minutes per response.

Estimated Total Annual Burden Hours: 31,500.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 1, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–11315 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–JT–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–835, A–549–812]

Continuation of Antidumping Duty Orders: Furfuryl Alcohol From the People's Republic of China and Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Orders: Furfuryl Alcohol from the People's Republic of China and Thailand.

SUMMARY: On September 5, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752(c) of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty orders on furfuryl alcohol from the People's Republic of China (''PRC'') and Thailand would likely lead to continuation or recurrence of dumping (65 FR 53701). On April 26, 2001, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty orders on furfuryl alcohol from the PRC and Thailand would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 21015). Therefore, pursuant to 751(d)(2) of the Act and 19 CFR 351.218(e)(4), the Department is publishing notice of the continuation of the antidumping duty orders on furfuryl alcohol from the PRC and Thailand.

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2000, the Department initiated (65 FR 25309), and the Commission instituted (65 FR 25363), sunset reviews of the antidumping duty orders on furfuryl alcohol from the PRC and Thailand, pursuant to section 751(c) of the Act. As a result of its reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail were the orders to be revoked. *See Furfuryl Alcohol From the People's Republic of China and Thailand; Final Results of Antidumping Duty Sunset Reviews,* 65 FR 53701 (September 5, 2000).

On April 26, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on furfuryl alcohol from the PRC and Thailand would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Furfuryl Alcohol from China and Thailand,* 66 FR 21015 (April 26, 2001) and USITC Publication 3412 (April 2001), Investigations Nos. 731–TA–703 and 705 (Review).

Scope of the Orders

The merchandise covered in these antidumping duty orders is furfuryl alcohol (C^4 H^3 OCH^2OH). Furfuryl alcohol is a primary alcohol and is colorless or pale yellow in appearance. It is used in the manufacture of resins and as a wetting agent and solvent for coating resins, nitrocellulose, cellulose acetate, and other soluble dyes. The product subject to these orders is classifiable under subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Determination

As a result of the determination by the Department and the Commission that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on furfuryl alcohol from the PRC and Thailand. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders no later than April 2006.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

April 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Group 1, Import Administration.

[FR Doc. 01–11308 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal From the People's Republic of China; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty administrative review.

SUMMARY: In response to February 27, 2001, and February 28, 2001, requests by certain producers/exporters of manganese metal from the People's Republic of China, the Department of Commerce initiated an administrative review of the antidumping duty order on manganese metal from the People's Republic of China, covering the period February 1, 2000, through February 6, 2001. See Initiation of Antidumping and Countervailing Administrative Reviews and Requests for Revocations In Part, 66 FR 16037 (March 22, 2001). Based on timely withdrawals of the requests for review from these companies, we are rescinding this review in its entirety in accordance with § 351.213(d)(1) of our regulations.

EFFECTIVE DATE: May 3, 2001.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Suresh Maniam, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2239 and (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department's'') regulations refer to 19 CFR part 351 (2000).

Background

On February 27, 2001, Minmetals Precious & Rare Minerals Import and Export (''Minmetals'') and CEIEC-Hunan Company (Electronics) (''CEIEC-Hunan''), producers/exporters of manganese metal from the People's Republic of China, requested an administrative review of the subject merchandise for the period February 1, 2000 through January 31, 2001. On February 28, 2001, London & Scandinavian Metallurgical Co., Ltd. and Shieldalloy Metallurgical Corporation (together referred to as ''LSM/SMC''), likewise requested an administrative review of the subject merchandise for the period February 1, 2000 through January 31, 2001. In accordance with 19 CFR 351.221(c)(1)(i), the Department published the initiation of an administrative review of the antidumping duty order. See Initiation of Antidumping and Countervailing Administrative Reviews and Requests for Revocations In Part, 66 FR 16037 (March 22, 2001) (''Initiation Notice'').[1] On January April 17, 2001, LSM/SMC withdrew their request for review. On April 24, 2001, Minmetals and CEIEC-Hunan withdrew their request for review.

The Department's regulations, at 19 CFR 351.213(d)(1), provide that the Department will rescind an administrative review if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Since all parties requesting review withdrew their requests for an administrative review within the 90-day deadline, the Department is rescinding this administrative review.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 27, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–11307 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–827]

Static Random Access Memory Semiconductors From Taiwan; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests by various interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on static random access memory semiconductors from Taiwan. This review covers the U.S. sales and/or entries of four manufacturers/exporters. In addition, we are rescinding this review with respect to one company. The period of review is April 1, 1999, through March 31, 2000.

We have preliminarily determined that sales have been made below the normal value by each of the companies subject to this review. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0656.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

In accordance with 19 CFR 351.213(b)(2), in April 2000, the following two producers/exporters of SRAMs requested an administrative review of the antidumping duty order on SRAMs from Taiwan: Galvantech, Inc. (Galvantech), and GSI Technology, Inc. (GSI Technology). In addition, the petitioner, Micron Technology, Inc., requested an administrative review of GSI Technology, as well as G-Link Technology (G-Link), Integrated Silicon Solution Inc. (ISSI), and Winbond Electronics Corporation (Winbond).

In May 2000, the Department initiated an administrative review for each of these companies (65 FR 35320 (June 2, 2000)) and issued questionnaires to them.

On June 16, 2000, the Department extended the time limit for completion of the preliminary results until April 30, 2001. *See Static Random Access Memory Semiconductors From Taiwan: Notice of Extension of Time Limits for Antidumping Duty Administrative Review*, 65 FR 38809 (June 22, 2000).

In December 2000, we received responses to sections A through C of the questionnaire (*i.e.,* the sections relating to general information, home market sales, and U.S. sales) from each of the respondents. In addition, we also received responses to section D of the questionnaire (*i.e.,* the section relating to cost of production (COP)/constructed value (CV)) from all companies except Galvantech.

On January 9, 2001, the petitioner alleged that Galvantech was selling at prices below the COP in its home market. Based on an analysis of this allegation, the Department initiated an investigation to determine whether Galvantech made home market sales during the period of review (POR) at

[1] We note that the Initiation Notice specified a period of review of February 1, 2000, through February 6, 2001. This period of review was extended beyond the dates initially requested by the respondents to include the 6 days remaining prior to the revocation of this dumping order, which became effective February 6, 2001. See January 2001 Sunset Reviews: Final Result and Revocation, 63 FR 17524 (April 2, 2001).

prices below the COP within the meaning of section 773(b) of the Act. Consequently, we required Galvantech to submit a response to section D of the questionnaire.

In January 2001, we issued a supplemental questionnaire to G-Link. We received a response to this questionnaire in February 2001.

In February 2001, we issued supplemental questionnaires to GSI Technology and Winbond. We received responses to these questionnaires in March 2001.

On February 5, 2001, Galvantech withdrew its request for an administrative review. Accordingly, we are rescinding this review with respect to Galvantech. For further discussion, see the ''Partial Rescission of Review'' section of this notice, below.

In March 2001, we issued a supplemental questionnaire to ISSI. We received a response to this questionnaire in April 2001.

Scope of the Review

The products covered by this review are synchronous, asynchronous, and specialty SRAMs from Taiwan, whether assembled or unassembled. Assembled SRAMs include all package types. Unassembled SRAMs include processed wafers or die, uncut die and cut die. Processed wafers produced in Taiwan, but packaged, or assembled into memory modules in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Taiwan are not included in the scope. The scope of this review includes modules containing SRAMs. Such modules include single in-line processing modules, single in-line memory modules, dual in-line memory modules, memory cards, or other collections of SRAMs, whether unmounted or mounted on a circuit board. The scope of this review does not include SRAMs that are physically integrated with other components of a motherboard in such a manner as to constitute one inseparable amalgam (*i.e.,* SRAMs soldered onto motherboards). The SRAMs within the scope of this review are currently classifiable under subheadings 8542.13.8037 through 8542.13.8049, 8473.30.10 through 8473.30.90, 8542.13.8005, and 8542.14.8004 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 1999, through March 31, 2000.

Partial Rescission of Review

As noted above, on February 5, 2001, Galvantech withdrew its request for an administrative review. No other interested party requested a review of sales of merchandise produced or exported by Galvantech during the POR. Although Galvantech asked to withdraw its review request after the 90-day time limit specified in 19 CFR 351.213(d)(1), the review had not yet progressed beyond a point where it would have been unreasonable to allow Galvantech to withdraw its request for review. Therefore, in accordance with 19 CFR 351.213(d)(1) and consistent with our practice, we are rescinding our review with respect to Galvantech. For further discussion, see the February 8, 2001, memorandum from the Team to Louis Apple, entitled ''Request by Cypress Semiconductor Corporation to Withdraw its Request for an Administrative Review in the 1999–2000 Antidumping Duty Administrative Review on Static Random Access Memory Semiconductors from Taiwan.''

Duty Absorption

On June 26, 2000, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR by the respondents. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because each respondent sold to unaffiliated customers in the United States through an importer that is affiliated, and because this review was initiated two years after the publication of the order, we will make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act.

On July 11, 2000, the Department requested evidence from each respondent to demonstrate that U.S. purchasers will pay any ultimately assessed duties charged to them. The Department requested that this information be provided no later than December 11, 2000. No respondent provided such evidence. Consequently, we have preliminarily determined that duty absorption by all respondents has occurred in this administrative review. As our analysis of the dumping margins may be modified in our final results, if interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay any ultimately assessed duty charged to affiliated importers, they must do so no later than 15 days after publication of these preliminary results. Any such information will be considered by the Department if we determine in our final results that there are dumping margins on the respondents' U.S. sales.

Normal Value Comparisons

To determine whether sales of SRAMs from Taiwan to the United States were made at less than normal value (NV), we compared the constructed export price (CEP) to the NV for each respondent as specified in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice, below.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the foreign market as described in the ''Scope of the Review'' section of this notice, above, that were in the ordinary course of trade. Where there were no sales of identical merchandise in the foreign market made in the ordinary course of trade to compare to U.S. sales in the same quarter, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade within the quarter, or to CV, as appropriate.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For CEP, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP

sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (Nov. 19, 1997).

G-Link claimed that it made home market sales at only one level of trade, while GSI Technology, ISSI, and Winbond claimed that they made home market sales at two levels of trade (*i.e.,* to original equipment manufacturers (OEMs) and distributors). We examined the selling activities at each reported marketing stage for each respondent and found that there was no substantive difference in the selling functions performed at any of these alleged stages. Consequently, we determine that only one level of trade exists with respect to sales made by these companies to all home market customers.

In order to determine whether NV was established at a level of trade which constituted a more advanced stage of distribution than the level of trade of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, which excludes economic activities occurring in the United States, pursuant to section 772(d) of the Act.

Based on this comparison, we found that G-Link performed essentially the same selling functions in its sales offices in Taiwan for home market and U.S. sales. Therefore, G-Link's home market sales were not at a more advanced stage of marketing and distribution than the constructed U.S. level of trade, which represents an F.O.B. foreign port price after the deduction of expenses associated with U.S. selling activities. Because we find that no difference in level of trade exits between markets, we have not granted a CEP offset to G-Link.

Regarding GSI Technology, we found that this respondent generally performed all selling functions for certain home market sales at its head office in the United States, while it performed additional selling functions for its remaining home market sales through an affiliated party in Taiwan. We also found that this respondent performed all of the selling functions related to its U.S. sales at its U.S. office. These selling functions are associated with those expenses which we deduct from the CEP starting price, as specified in section 772(d) of the Act. Therefore, we find that GSI Technology's sales in the home market were at a more advanced stage of marketing and distribution (*i.e.,* more remote from the factory) than the constructed U.S. level of trade.

Similarly, we found that ISSI performed a number of selling functions and services related to home market sales at its sales office in the United States, in addition to the selling functions performed with respect to these sales by the affiliated entity in Taiwan. We also found that this respondent performed the majority of the selling functions related to its U.S. sales at its U.S. office. These selling functions are associated with those expenses which we deduct from the CEP starting price, as specified in section 772(d) of the Act. Therefore, we find that ISSI's sales in the home market were at a more advanced stage of marketing and distribution (*i.e.,* more remote from the factory) than the constructed U.S. level of trade.

Finally, regarding Winbond, we found that this company performed most of the selling functions and services related to U.S. sales at its sales office in the United States. These selling functions are associated with those expenses which we deduct from the CEP starting price, as specified in section 772(d) of the Act. Therefore, we find that Winbond's sales in the home market were at a more advanced stage of marketing and distribution (*i.e.,* more remote from the factory) than the constructed U.S. level of trade.

Because GSI Technology, ISSI, and Winbond sell at only one level of trade in the home market, we find that the difference in the levels of trade between the home and U.S. markets cannot be quantified. Because the difference in the levels of trade cannot be quantified, but the home market is at a more advanced level of trade, we have granted a CEP offset to GSI Technology, ISSI, and Winbond. For a detailed explanation of our analysis for all four respondents, see the memorandum from the Team to Louis Apple, entitled ''Concurrence Memorandum for the Preliminary Results of the 1999–2000 Antidumping Duty Administrative Review on Static Random Access Memory Semiconductors from Taiwan,'' dated April 30, 2001.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP methodology because all sales took place after importation into the United States.

A. G-Link

We calculated CEP based on the starting price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions for foreign inland freight, foreign brokerage and handling expenses, international freight, foreign inland insurance, marine insurance, U.S. customs duties, U.S. merchandise processing fees, U.S. warehousing, and U.S. freight expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for commissions, credit expenses and U.S. indirect selling expenses, including U.S. inventory carrying costs, in accordance with section 772(d)(1) of the Act.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at the CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by G-Link and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

B. GSI Technology

We based CEP on the starting price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts. We also made deductions for foreign inland freight, foreign warehousing, international freight, marine insurance, U.S. merchandise processing fees, U.S. inland freight, U.S. customs duties, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for credit expenses, commissions, warranty expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by GSI Technology and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

C. ISSI

We based CEP on the starting price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for billing adjustments and discounts. However, we disallowed the negative discounts reported by ISSI because it has not demonstrated that these credits

related to POR sales. We also made deductions for foreign inland freight, foreign warehousing, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, U.S. merchandise processing fees, U.S. harbor maintenance fees, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for credit expenses, commissions, repacking expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at the CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by ISSI and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

D. Winbond

We based CEP on the starting price to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(1)(B) of the Act, we added an amount for uncollected import duties in Taiwan. Where appropriate, we made deductions for foreign inland freight, foreign warehousing, foreign brokerage and handling expenses, inland insurance, international freight, marine insurance, U.S. merchandise processing fees, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

We made additional deductions from CEP, where appropriate, for commissions, credit expenses, and U.S. indirect selling expenses, including U.S. inventory carrying costs and other indirect selling expenses, in accordance with section 772(d)(1) of the Act.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at the CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Winbond and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

In order to determine whether there was a sufficient volume of sales in the foreign market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with 19 CFR 351.404(b). Based on this comparison, we determined that each of the respondents had a viable home market during the POR. Consequently, we based NV on home market sales for each respondent.

Pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that each respondent had made home market sales at prices below their COPs in this review. In the less-than-fair-value (LTFV) investigation, the Department disregarded below-cost sales for ISSI made in the home market. (*See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8913 (Feb. 23, 1998).) Also, in the most recently completed administrative review, the Department disregarded below-cost sales for G–Link, GSI Technology, and Winbond (ISSI was not reviewed). (*See Static Random Access Memory Semiconductors From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 65 FR 55005 (Sep. 12, 2000).) As a result, the Department initiated an investigation to determine whether each respondent made home market sales during the POR at prices below their COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product in each quarter of the POR, plus amounts for general and administrative expenses and financing costs, in accordance with section 773(b)(3) of the Act.

We compared the weighted-average quarterly COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below their respective COPs. On a product-specific basis, we compared the COP to foreign market prices, less any applicable movement charges, discounts, rebates, selling expenses, and packing expenses.

In determining whether to disregard foreign market sales made at prices below the COP, we examined whether such sales were made: 1) in substantial quantities within an extended period of time; and 2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. *See* section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.''

Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) and (C) of the Act. To determine whether prices provided for recovery of costs within a reasonable period of time, we tested whether the prices which were below the per-unit cost of production at the time of the sale were also below the weighted-average per-unit cost of production for the POR, in accordance with section 773(b)(2)(D). If they were, we disregarded the below-cost sales in determining NV. We did not disregard any below-cost sales for GSI Technology.

We found that, for certain models of SRAMs, more than 20 percent of each respondent's foreign market sales within an extended period of time were at prices below the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. We therefore disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of SRAMs for which there were no comparable home market sales in the ordinary course of trade, we compared CEP to CV, in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of each respondent's cost of materials, fabrication, SG&A (including financing expenses), profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A, financing expenses, and profit on the amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

Company-specific calculations are discussed below.

A. G–Link

Where NV was based on home market sales, we based NV on the starting price to unaffiliated customers. We made deductions from the starting price for foreign inland freight and foreign inland insurance, where appropriate, pursuant to section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses.

Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by home market indirect selling expenses, up to the amount of the U.S. commission.

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Where NV was based on CV, we deducted from CV the weighted-average foreign market direct selling expenses, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. Where applicable, we offset any commission paid on a U.S. sale by reducing the NV by the amount of home market indirect selling expenses, up to the amount of the U.S. commission.

B. GSI Technology

We based NV on the starting price to unaffiliated customers. We made deductions from the starting price for foreign warehousing, where appropriate, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses and commissions.

We deducted home market indirect selling expenses, including inventory carrying costs, advertising expenses, and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

For all price-to-price comparisons, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Where NV was based on CV, we deducted from CV the weighted-average home market direct selling expenses and commissions, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment, calculated as noted above. Where applicable, we offset any commission paid on a U.S. sale by reducing the NV by any home market selling expenses remaining after the deduction of the CEP offset, up to the amount of the U.S. commission.

C. ISSI

Where NV was based on home market sales, we based NV on the starting price to unaffiliated customers, less rebates, where appropriate. We made deductions from the starting price, where appropriate, for foreign inland freight and foreign inland insurance, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses, bank charges, and industrial park administration fees, where appropriate.

We deducted home market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by any home market selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to the NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Where NV was based on CV, we deducted from CV the weighted-average home market direct selling expenses, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment, calculated as explained above. Where applicable, we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

D. Winbond

Where NV was based on home market sales, we based NV on the starting price to unaffiliated customers, less billing adjustments, early payment discounts, and quality discounts, where appropriate. We made deductions from the starting price for foreign inland freight, foreign brokerage and handling, and foreign inland insurance, pursuant to section 773(a)(6)(B) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act, we also made deductions for home market credit expenses and trade development fees, where appropriate.

We deducted home market indirect selling expenses, including inventory carrying costs and other indirect selling expenses, up to the amount of indirect selling expenses incurred on U.S. sales, in accordance with section 773(a)(7)(B) of the Act. Where applicable, in accordance with 19 CFR 351.410(e), we offset any commission paid on a U.S. sale by reducing the NV by any home market selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

In addition, we deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act. Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Where NV was based on CV, we deducted from CV the weighted-average foreign market direct selling expenses, in accordance with sections 773(a)(6)(C)(iii) and 773(a)(8) of the Act. In accordance with section 773(a)(7)(B) of the Act, we granted a CEP offset adjustment, calculated as explained above. Where applicable, we offset any commission paid on a U.S. sale by reducing the NV by any home market indirect selling expenses remaining after the deduction for the CEP offset, up to the amount of the U.S. commission.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark for the daily rate, in accordance with established practice.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period April 1, 1999, through March 31, 2000:

Manufacturer/exporter	Percent margin
G-Link Technology	10.68
GSI Technology, Inc	4.22
Integrated Silicon Solution Inc ..	16.25
Winbond Electronics Corp	0.58

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of the publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs, within 120 days of the publication of these preliminary results.

Upon completion of this administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of each importer's sales during the POR. These rates will be assessed uniformly on all entries of particular importers made during the POR. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries for any importer for whom the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of SRAMs from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for G-Link, GSI Technology, ISSI, and Winbond will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 41.75 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–11310 Filed 5–3–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to a request by the petitioner and two producers/exporters of the subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. This review covers four manufacturers/exporters of the subject merchandise to the United States. This is the third period of review, covering April 1, 1999, through March 31, 2000.

We have preliminarily determined that sales have been made below the normal value by the companies subject to this review. If these preliminary results are adopted in the final results of this review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone:(202) 482–0656.

Applicable Statue and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2000).

Background

On April 12, 2000, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey (65 FR 19736).

In accordance with 19 CFR 351.213(b)(2), in April 2000, the Department received requests from Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S. and Diler Dis Ticaret A.S. (collectively ''Diler'') and ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS) to conduct an administrative review of the antidumping duty order on rebar from Turkey. In accordance with 19 CFR 351.213(b)(1), on May 1, 2000, the Department also received a request for an administrative review

from the petitioner, AmeriSteel, for the following three producers/exporters of rebar: Colakaglu Metalurji A.S. (Colakoglu), Ekinciler Holding, A.S. and Ekinciler Demir Celik A.S. (collectively ''Ekinciler''), and ICDAS.

In May 2000, Diler requested that the Department modify its reporting requirement with respect to home market sales, in light of the fact that Diler only made U.S. sales in certain months of the period of review (POR). In June 2000, we granted this request and shortened Diler's reporting period to May 1 through October 31, 1999. For further discussion, see the memorandum to Louis Apple from Gerald Surowiec, entitled ''1999–2000 Antidumping Duty Administrative Review of Concrete Steel Reinforcing Bar from Turkey—Request by Diler for a Shortened Reporting Period,'' dated June 14, 2000 (*Diler Reporting Period Memo*).

In June and July 2000, the Department initiated an administrative review for Colakoglu, Diler, Ekinciler, and ICDAS (65 FR 35320 (June 2, 2000) and 65 FR 41942 (July 7, 2000)) and issued questionnaires to them.

Also in June and July 2000, Ekinciler and ICDAS requested that the Department similarly modify their reporting requirements with respect to their home market sales data.[1] In July 2000, we also granted these requests and shortened Ekinciler's and ICDAS's reporting periods to October 1, 1999, through March 31, 2000, and April 1 through September 30, 1999, respectively. For further discussion, see the memorandum to Louis Apple from Gerald Surowiec, entitled ''1999–2000 Antidumping Duty Administrative Review of Concrete Steel Reinforcing Bar from Turkey—Request by Ekinciler for a Shortened Reporting Period,'' dated July 7, 2000 (*Ekinciler Reporting Period Memo*), as well as the memorandum to Louis Apple from Gerald Surowiec, entitled ''Request by ICDAS for a Shortened Reporting Period in the 1999–2000 Antidumping Duty Administrative Review on Steel Concrete Reinforcing Bars from Turkey,'' dated July 21, 2000 (*ICDAS Reporting Period Memo*).

In July and August 2000, we received responses to sections A through C of the questionnaire (*i.e.,* the sections regarding sales to the home market and the United States) from each of the respondents. Also in August 2000, we received responses to Section D of the questionnaire (i.e., the section regarding cost of production (COP) and constructed value (CV)) from Colakoglu and Ekinciler.

In August 2000, the petitioner alleged that both Diler and ICDAS were selling at prices below their COPs in the home market. Based on an analysis of these allegations, in August and September 2000, respectively, the Department initiated investigations to determine whether ICDAS and Diler made home market sales at prices below their COPs within the meaning of section 773(b) of the Act. Consequently, we requested that these companies submit responses to section D of the questionnaire. We received responses to these questionnaires in September and October 2000.

In September and October 2000, we issued supplemental questionnaires to the respondents. We received responses to these questionnaires in September, October, and December 2000.

On October 3, 2000, the Department postponed the preliminary results of this review until no later than April 30, 2001. *See Steel Concrete Reinforcing Bars From Turkey; Notice of Extension of Time Limits for Antidumping Duty Administrative Review,* 65 FR 60169 (Oct. 10, 2000).

We verified the sales and cost information submitted by all four respondents in November 2000, as well as in January and February 2001, in accordance with section 782(i) of the Act and 19 CFR 351.307(b)(1)(iv). In March 2001, we requested and received revised databases from Diler, Ekinciler, and ICDAS, incorporating our findings at verification.

Scope of the Review

The product covered by this review is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 1999, through March 31, 2000.

Level of Trade and Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value (NV) based on sales in the comparison market at the same level of trade as export price (EP) or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses (SG&A) and profit. For EP, the U.S. level of trade is also the level of the starting-price sale, which is usually from the exporter to the unaffiliated U.S. customer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61732 (Nov. 19, 1997).

Colakoglu claimed that it made home market sales at more than one level of trade, while the remaining respondents claimed that they made home market sales at only one level of trade. We analyzed the information on the record for each company and found that each respondent, including Colakoglu, performed essentially the same marketing functions in selling to all of its home market customers, regardless of customer category (*e.g.,* end user, distributor, etc.). Therefore, we determined that these sales are at the same level of trade and that no level of trade adjustment is possible for any of the respondents because the record does not contain the type of information to make such an adjustment, given that there is only one level of trade in the home market. For a detailed explanation

[1] Ekinciler's request was also regarding its cost data.

of this analysis, see the memorandum from the Team to Louis Apple, entitled ''Concurrence Memorandum for the Preliminary Results of the 1999–2000 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey,'' dated April 30, 2001.

Comparisons to Normal Value

To determine whether sales of rebar from Turkey were made in the United States at less than normal value, we compared the EP to the NV. Because Turkey's economy experienced significant inflation during the POR, as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our ''90/60'' contemporaneity rule (*see, e.g., Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 42496, 42503 (Aug. 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

We first attempted to compare products sold in the United States to products sold in the home market in the ordinary course of trade that were identical with respect to the following characteristics: grade, size, ASTM specification, and form. Where there were no home market sales of merchandise that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

Regarding Colakoglu, we were unable to make product comparisons for certain models which were produced and sold during 1999 because this respondent failed to report cost information for them, including both difference-in-merchandise and CV data. Consequently, for purposes of the preliminary results, we based the margin for the sales of these products on facts available pursuant to section 776(a)(2)(B) of the Act. As facts available, we used the highest non-aberrant margin calculated for any U.S. transaction for Colakoglu, in accordance with our practice. *See, e.g., Static Random Access Memory Semiconductors From Taiwan; Preliminary Results and Partial Recission of Antidumping Administrative Review,* 65 FR 26577, 26579 (May 8, 2000) (unchanged by the final results); and *Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Germany,* 64 FR 30710, 30732 (June 8, 1999). In selecting a facts-available margin, we sought a margin that is sufficiently adverse so as to effectuate the statutory purposes of the adverse facts-available rule, which is to induce respondents to provide the Department with complete and accurate information in a timely manner. We also sought a margin that is indicative of the respondent's customary selling practices and is rationally related to the transactions to which the adverse facts available are being applied. To that end, we selected the highest margin on an individual sale which fell within the mainstream of Colakoglu's transactions (*i.e.,* transactions that reflect sales of products that are representative of the broader range of models used to determine NV).

Export Price

For all U.S. sales we used EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of record.

A. Colakoglu

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for ocean freight expenses, marine insurance expenses, inspection fees, bill of lading issuance fees, loading charges, and demurrage expenses (offset by freight commission revenue, wharfage revenue, despatch revenue, demurrage commission revenue, and agency fee revenue), where appropriate, in accordance with section 772(c)(2)(A) of the Act.

B. Diler

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, brokerage and handling expenses, port and loading fees, and ocean freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

C. Ekinciler

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, surveying fees, forklift expenses, dunnage expenses, loading fees, brokerage and handling expenses, ocean freight expenses, and customs clearance fees, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

D. ICDAS

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, surveying fees, brokerage and handling expenses, and ocean freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POR. Consequently, we based NV on home market sales.

All four respondents made sales of rebar to affiliated parties in the home market during the POR. Consequently, we tested these sales to ensure that they were made at ''arm's-length'' prices, in accordance with 19 CFR 351.403(c). To conduct this test, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that these sales were made at arm's length *(see Preamble, Antidumping Duties; Countervailing Duties; Final Rule* 62 FR 27295, 27355 (May 19, 1997)). In accordance with the Department's practice, we only included in our margin analysis those sales to the affiliated party that were made at arm's length.

Pursuant to section 773(b)(2)(A)(ii) of the Act, for Colakoglu and Ekinciler, there were reasonable grounds to believe or suspect that these respondents had made home market sales at prices below their COPs in this review because the Department had disregarded sales below the COP for these companies in the most recently completed segment of this proceeding in which these companies participated (*i.e.,* the less-than-fair-value (LTFV) investigation and the first review, respectively). *See Notice of Final Determination of Sales at Less Than*

Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey, 62 FR 9737, 9740 (Mar. 4, 1997). *See also Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review,* 64 FR 49150, 49152 (Sept. 10, 1999). Pursuant to section 773(b)(2)(A)(i) of the Act, for Diler and ICDAS, there were reasonable grounds to believe or suspect that these respondents had made home market sales at prices below their COPs in this review because of information contained in the cost allegations properly filed in this review by the petitioner (*see* the memorandum from The Team to Louis Apple, entitled, ''Antidumping Duty Administrative Review on Steel Concrete Reinforcing Bars from Turkey: Analysis of the Petitioners' Allegation of Sales Below the Cost of Production for Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S., and Diler Dis Ticaret A.S.,'' dated September 1, 2000, as well as the memorandum from the Team to Louis Apple, entitled ''Antidumping Duty Administrative Review on Steel Concrete Reinforcing bars from Turkey: Analysis of the Petitioners' Allegation of Sales Below the Cost of Production for ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.,'' dated August 29, 2000). As a result, the Department initiated investigations to determine whether each respondent made home market sales during the POR at prices below their respective COPs.

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for SG&A and packing costs, in accordance with section 773(b)(3) of the Act. We relied on the latest databases submitted by each respondent, adjusted for our findings at verification. Regarding ICDAS, we adjusted the reported secondary materials costs, which were based on historical costs, to reflect the weighted-average current purchase price at the time of consumption. We also disallowed ICDAS's material offset for sales of short-length rebar.

As noted above, we determined that the Turkish economy experienced significant inflation during the POR. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that each respondent submit the product-specific cost of manufacturing (COM) incurred during each month of the reporting period. We calculated a period-average COM for each product after indexing the reported monthly costs during the reporting period to an equivalent currency level using the Turkish Wholesale Price Index from the International Financial Statistics published by the International Monetary Fund. We then restated the period-average COMs in the currency values of each respective month. For further discussion of the reporting periods for Diler, Ekinciler, and ICDAS, see the ''Background'' section of this notice, above.

We compared the weighted-average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges and selling expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) for Colakoglu only, at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(2)(B), (C), and (D) of the Act. Regarding Diler, Ekinciler, and ICDAS, we did not conduct a recovery of cost test because these companies did not report all costs over the POR.[2]

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, for Colakoglu, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

A. Colakoglu

For those comparison products for which there were sales at prices above the COP, we based NV on ex-factory or delivered prices to home market customers. For those home market sales which were negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the Turkish lira (TL) price adjusted for kur farki (*i.e.,* an adjustment to the TL invoice price to account for the difference between the estimated and actual TL value on the date of payment), because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged; the buyer merely paid the TL-equivalent amount at the time of payment. Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, bank charges, and Exporters' Association fees.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs as adjusted for inflation for each month of the POR, as described above.

B. Diler

For those comparison products for which there were sales at prices above the COP, we based NV on ex-factory or delivered prices to home market customers. For those home market sales which were negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the TL price adjusted for kur farki, for the reasons noted above. Where appropriate, we made deductions from the starting price for foreign inland freight, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, as well as Exporters' Association fees.

We deducted home market packing costs and added U.S. packing costs, in

[2] We note that each of these companies waived its right to a cost recovery test as a condition of obtaining a modified home market sales and cost reporting period. For further discussion, see the *Diler Reporting Period Memo, Ekinciler Reporting Period Memo,* and the *ICDAS Reporting Period Memo.*

accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using period-average costs as adjusted for inflation for each month of the reporting period, as described above.

C. Ekinciler

For those comparison products for which there were sales at prices above the COP, we based NV on ex-factory, ex-warehouse or delivered prices to home market customers, adjusted for billing errors. We excluded from our analysis home market re-sales by Ekinciler of merchandise produced by unaffiliated companies. Where appropriate, we made deductions from the starting price for foreign inland freight and off-site warehousing expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, bank charges, and Exporters' Association fees. We made no adjustment for home market commissions because Ekinciler did not report any U.S. indirect selling expenses for use as an offset. For further discussion, see the memorandum from Elizabeth Eastwood to the File, entitled ''Calculations Performed for the Ekinciler Group (Ekinciler) for the Preliminary Results in the 1999–2000 Antidumping Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey,'' dated April 30, 2001.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using period-average costs as adjusted for inflation for each month of the reporting period, as described above.

D. ICDAS

We based NV on delivered prices to home market customers because we found that all home market sales were in the ordinary course of trade. We made deductions from the starting price for foreign inland freight expenses in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses (offset by interest revenue, where appropriate), bank charges, and Exporters' Association fees.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones News/Retrieval Service. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 64 FR 49150, 49158 (Sept. 10, 1999).

Preliminary Results of the Review

We preliminarily determine that the following margins exist for the respondents during the period April 1, 1999, through March 31, 2000:

Manufacturer/Producer/Exporter	Margin percentage
Colakoglu Metalurji A.S.	10.47
Ekinciler Holding A.S./Ekinciler Demir Celik A.S.	15.05
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./ Diler Dis Ticaret A.S.	0.00
ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S.	0.00

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

Upon completion of the administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for Diler, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Regarding Colakoglu, Ekinciler, and ICDAS, for assessment purposes, we do not have the information to calculate entered value because these companies are not the importers of record for the subject merchandise. Accordingly, we have calculated importer-specific duty assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. The assessment rate will be assessed uniformly on all entries of that particular importer made during the POR. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties any of Diler's entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of this review; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR

351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 30, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–11309 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wisconsin-Madison; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Docket Number: 01–006. *Applicant:* University of Wisconsin-Madison, Madison, WI 53706. *Instrument:* Photoelectron Emission Microscope, Model PEEM III. *Manufacturer:* ELMITEC Elektronenmikroskopie, Germany. *Intended Use:* See notice at 66 FR 18445, March 26, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides aberration correction for high transmission and sub 10 nm resolution. The National Institutes of Health advises in its memorandum of March 12, 2001 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–11311 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Wisconsin-Madison Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 01–007. *Applicant:* University of Wisconsin—Madison, Madison, WI 53706. *Instrument:* Sample Preparation Chamber with accessories. *Manufacturer:* ELMITEC Elektronenmikroskopie, Germany. *Intended Use:* See notice at 66 FR 16445, March 26, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an existing instrument purchased for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum of March 12, 2001, that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the existing instrument.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–11312 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advanced Technology Program; Announcement of a Public Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend the Advanced Technology Program (ATP) National Meeting, ''Technologies at the Crossroads: Frontiers of the Future''. ATP provides a mechanism for industry to extend its technological reach and improve the quality of life and acts as a facilitator to encourage companies, universities, and research organizations to work jointly and creatively to develop new, synergistic technologies that will benefit the nation.

DATES: The National Meeting will be held on June 3, 2001, from 5:00 p.m. to 7:00 p.m. The Meeting will continue on June 4, 2001, from 8:00 a.m. to 7:00 p.m. and on June 5, 2001, from 7:30 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Wyndham Baltimore Inner Harbor Hotel, 101 West Fayette Street, Baltimore, Maryland 21201. The hotel can be reached at (410) 752–1100.

FOR FURTHER INFORMATION CONTACT: Linda Engelmeier at (301) 975–6026 or e-mail: *Linda.Engelmeier@nist.gov.*

SUPPLEMENTARY INFORMATION: The ATP statute originated in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418) and was amended by the American Technology Preeminence Act of 1991 (Public Law 102–245). This law is codified at 15 U.S.C. 278n. The ATP implementing regulations are published at CFR part 295, as amended. The ATP is a competitive cost-sharing program designed for the Federal government to work in partnership with industry, universities, and states to accelerate the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant commercial payoffs and widespread benefits for the nation.

The National Meeting will feature keynote and futurist speakers who will provide insights into the ''Frontiers of the Future''. Meeting sessions are designed to stimulate and encourage attendees to pursue research leading to path-breaking, innovative technologies that will make a difference in people's lives and focus on the technology crossroads that will lead us from today

to the frontiers of tomorrow. Highlights of the meeting include eight forums featuring national and international experts in various technology fields; an opportunity to meet with NIST scientists at Poster Sessions demonstrating advances in the chemical, physical, and biological areas of science that have direct impact on advances in all technologies; an ATP/Industry Showcase, featuring quality projects that have received ATP funding assistance; a Venture Capital forum to hear how venture capital firms decide which technologies to fund out of an expanding universe of emerging technologies; and interactive networking opportunities with leaders in ''cutting edge'' technologies and ATP program managers and business experts. Information on the meeting agenda and the registration requirements can be found at the ATP website at *www.atp.nist.gov.* There is a registration fee of $525.

Dated: April 30, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–11179 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Call for Applications for Alternate Representatives to the Coral Reef Ecosystem Reserve Council for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: On December 4, 2000, Executive Order 13178 established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). The Executive Order requires the Secretary of Commerce or his or her designee (hereafter Secretary) to establish a Coral Reef Ecosystem Reserve Council (Reserve Council) to provide advice and recommendations on the development of the Reserve Operations Plan and the designation and management of a Northwestern Hawaiian Islands National Marine Sanctuary by the Secretary. The Secretary, through the Office of National Marine Sanctuaries (ONMS), established the Reserve Council and is now seeking applicants for alternates to the citizen/constituent representatives on the Reserve Council. Previous applicants do not need to reapply and will still be considered in the competitive pool.

DATES: Completed applications must be postmarked no later than June 4, 2001.

ADDRESSES: Application kits may be obtained from Robert Smith or Aulani Wilhelm, Northwest Hawaiian Islands Coral Reef Ecosystem Reserve, National Ocean Service, P.O. Box 43, Hawaii National Park, Hawaii 96718–0043, or online at: *http://hawaiireef.noaa.gov.*

Completed applications should be sent to the same address as above.

FOR FURTHER INFORMATION CONTACT: Aulani Wilhelm at (808) 295–1234, or *aulani.wilhelma@noaa.gov,* or visit the web site at: *http://hawaiireef.noaa.gov.*

SUPPLEMENTARY INFORMATION: On December 4, 2000, Executive Order 13178 established the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, pursuant to the National Marine Sanctuaries Act, as amended by the National Marine Sanctuaries Amendments Act of 2000. The Reserve encompasses an area of the marine waters and submerged lands of the Northwestern Hawaiian Islands, extending approximately 1200 nautical miles long and 100 nautical miles wide. The Reserve is adjacent to and seaward of the seaward boundary of Hawaii State waters and submerged lands and the Midway Atoll National Wildlife Refuge, and includes the Hawaiian Islands National Wildlife Refuge to the extent it extends beyond Hawaii State waters and submerged lands. The Reserve will be managed by the Secretary of Commerce pursuant to the National Marine Sanctuaries Act and the Executive Order. The Secretary has also initiated the process to designate the Reserve as a National Marine Sanctuary. The management principles and implementation strategy and requirements for the Reserve are found in the Executive Order, which is part of the application kit and can be found on the web site listed above.

In designating the Reserve, the Secretary of Commerce was directed to establish a Coral Reef Ecosystem Reserve Council, pursuant to section 315 of the National Marine Sanctuaries Act, to provide advice and recommendations on the development of the Reserve Operations Plan and the designation and management of a Northwestern Hawaiian Islands National Marine Sanctuary by the Secretary. The National Marine Sanctuary System (NMSS) has established the Reserve Council and is not accepting applications from interested individuals for alternates for the following fourteen citizen/constituent positions on the Council:

1. Three Native Hawaiian representatives, including one Native Hawaiian elder, with experience or knowledge regarding Native Hawaiian subsistence, cultural, religious, or other activities in the Northwestern Hawaiian Islands.

2. Three representatives from the non-Federal science community with experience specific to the Northwestern Hawaiian Islands and with expertise in at least one of the following areas:

A. Marine mammal science.

B. Coral reef ecology.

C. Native marine flora and fauna of the Hawaiian Islands.

D. Oceanography.

E. Any other scientific discipline the Secretary determines to be appropriate.

3. Three representatives from non-governmental wildlife/marine life, environmental, and/or conservation organizations.

4. One representative from the commercial fishing industry that conducts activities in the Northwestern Hawaiian Islands.

5. One representative from the recreational fishing industry that conducts activities in the Northwestern Hawaiian Islands.

6. One representative from the ocean-related tourism industry.

7. One representative from the non-Federal community with experience in education and outreach regarding marine conservation issues.

8. One citizen-at-large representative.

All individuals who have previously applied do not need to reapply and remain in the competitive pool for the alternates.

The Reserve Council also includes one representative from the State of Hawaii (and an alternate as appropriate) as appointed by the Governor; the manager of the Hawaiian Islands Humpback Whale National Marine Sanctuary as a non-voting member; and one representative each, as non-voting members, from the Department of the Interior, Department of State, National Marine Fisheries Service, Marine Mammal Commission, U.S. Coast Guard, Department of Defense, National Science Foundation, National Ocean Service, and the Western Pacific Regional Fishery Management Council. The non-voting representatives and their alternates are chosen by the agencies and other entities which they represent on the Council. The charter for the Council can be found in the application kit, or on the web site listed above.

Applicants for the fourteen alternate positions now sought from the citizen/

constituent portion of the Council are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; and philosophy regarding the conservation and management of marine resources. Applicants who are chosen as alternates represent a seat in the absence of the primary Council member and/or may also complete the term if a primary member resigns. Alternates hold the same privileges as members when they are representing the member at a Council meeting. When the member is present at meetings, the alternate may participate as a member of the public. Alternates should expect to serve two- to three-year terms, pursuant to the Council's charter and matching those terms held by the primary seat for which the alternate is chosen. Persons who are interested in applying for membership on the Council may obtain an application from either the person or website identified above. Completed applications must be sent to the address listed above and must be received by June 4, 2001.

Authority: 16 U.S.C. Section 1431 et seq.; Pub. L. 106–513.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: April 27, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Oceans and Coastal Zone Management.

[FR Doc. 01–11234 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Stellwagen Bank National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary System (NMSS), National Ocean Service (NOS, National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Stellwagen Bank National Marine Sanctuary (SBNMS or Sanctuary) is seeking applicants for the following fifteen vacant seats on its Sanctuary Advisory Council (Council): Research (2); Conservation (2); Education (2); Marine Transportation (1); Fixed gear Fishing (1); Mobile gear Fishing (1); Recreation (1); Whale Watching Industry (1); Business/Industry (1); and Citizen-at-Large (3). Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve two or three-year terms, pursuant to the Council's Charter. Alternates to the fifteen members will also be chosen from the same pool of applicants.

DATES: Applications are due by June 8, 2001.

ADDRESSES: Application kits may be obtained from Sandi Dentino at Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Sandi Dentino, Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066.

SUPPLEMENTARY INFORMATION: The SBNMS Advisory Council was established in 1998 to assure continued public participation in the management of the Sanctuary. The past Council was dissolved in 2000 and this recruitment will establish a new Council to advise the new Superintendent. Since its establishment, the original Council has played a vital role in the decisions affecting the Sanctuary and surrounding waters.

The Council's fifteen voting members represent a variety of local user groups, as well as the general public. Six ex-officio members will represent state and federal governmental jurisdictions.

The Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policymakers, and other various groups that help to focus efforts and attention on Sanctuary issues.

The Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping to develop policies and program goals, and to identify education, outreach, research, long-term monitoring, resource protection and revenue enhancement priorities. The Council works in concert with the Sanctuary Superintendent by keeping him informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program within the context of SBNMS programs and policies.

Authority: 16 U.S.C. Section 1431 et seq.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: April 27, 2001.

Ted I. Lillestolen,

Deputy Assistant Administrator for Oceans and Coastal Zone Management.

[FR Doc. 01–11233 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042501G]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted four Fisheries Management and Evaluation Plans (FMEP) pursuant to the protective regulations promulgated for Middle Columbia River (MCR) steelhead under the Endangered Species Act (ESA). The FMEPs specify the future management of inland recreational fisheries potentially affecting the MCR steelhead. This document serves to notify the public of the availability of the FMEPs for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 4, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEPs should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number 503–736–4737 or e-mail: *rich.turner@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Middle Columbia River Steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Unit (ESU).

Background

ODFW has submitted to NMFS four FMEPs: (1) *Walla Walla River Summer Steelhead and Trout Fisheries*, (2) *Umatilla River Summer Steelhead, Trout and Warmwater Fisheries*, (3) *John Day River Steelhead, Trout and Warmwater Fisheries*, and (4) *Deschutes River, Small Columbia Tributaries: Fifteenmile, Mill and Chenoweth Creeks Summer Steelhead, Trout and Warmwater Fisheries*. These FMEPs are for inland recreational fisheries potentially affecting listed adult and juvenile MCR ESU steelhead. These include fisheries occurring in the Oregon portion of the Walla Walla River, the Umatilla River, the John Day River, the Deschutes River and in the smaller tributaries to the Columbia River in Oregon between the Hood River and the Deschutes River. The objective of these FMEPs is to harvest known, hatchery-origin steelhead and other fish species in a manner that does not jeopardize the survival and recovery of the MCR steelhead ESU. All fisheries included in these FMEPs will be managed such that only adult hatchery-origin steelhead that are adipose fin clipped may be retained. Impacts levels to listed MCR steelhead are specified in the FMEPs. Population viability analysis and risk assessments in the FMEPs indicate the extinction risk for listed steelhead under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEPs to assess the abundance of steelhead, determine fishery effort and catch of steelhead and angler compliance. A review of compliance with the provisions of the FMEP will be conducted by ODFW annually and a comprehensive review to evaluate the effectiveness of the FMEPs will occur at a minimum of every five years. In the John Day River, ODFW has also proposed a consumptive fishery on listed naturally produced MCR steelhead that would be implemented only after specific conditions are achieved. This fishery is in addition to the selective fishery for hatchery-origin adults described here. The conditions are described in the FMEP ''John Day River Steelhead, Trout and Warmwater Fisheries.''

ODFW has provided NMFS a draft of the Conservation Assessment of Steelhead Populations in Oregon (Assessment) as part of the FMEP submittal. The Assessment provides the population viability analysis and risk assessment developed for ODFW's FMEPs. This Assessment is also available for review and comment.

As specified in the July 10, 2000 ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead ESA 4(d) rule (65 FR 42422, July 10, 2000).

Dated: April 30, 2001.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11316 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042501H]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted two Fisheries Management and Evaluation Plans (FMEP) and The Idaho Department of Fish and Game (IDFG) has submitted a FMEP pursuant to the protective regulations promulgated for Snake River (SR) steelhead under the Endangered Species Act (ESA). The FMEPs specify the future management of inland recreational fisheries potentially affecting the SR steelhead. This document serves to notify the public of the availability of the FMEPs for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 4, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEPs should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Debbie Martin, Boise, ID at phone number: 208–321–2959, or e-mail: *debbie.martin@noaa.gov* , or Richard Turner, Portland, OR at phone number 503–736–4737 or e-mail: *rich.turner@noaa.gov*regarding FMEPs.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Snake River Basin Steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Unit (ESU).

Background

ODFW has submitted to NMFS an FMEP (*Snake, Grande Ronde, and Imnaha Rivers Warmwater and Sturgeon Recreation Fisheries*) for warmwater and sturgeon recreational fisheries potentially affecting listed adult and juvenile SR steelhead. This includes fisheries occurring in the Snake, Grande Ronde, and Imnaha River Basins. The objective of the FMEP is to provide a catch and release recreational fishing opportunity and harvest on introduced warmwater species in the Oregon portion of the Snake River, the Imnaha River, and the Grande Ronde River and tributaries in a manner that does not jeopardize the survival and recovery of the SR steelhead ESU. The FMEP focuses on the incidental mortality to SR steelhead from these fisheries. Impacts can result from the fisheries themselves and the potential impacts from the resident fish stocking program. Impact levels to listed steelhead populations in the ESU due to catch and release are specified in the FMEP. Population viability analyses and risk assessments in the FMEP indicate the extinction risk for listed steelhead under the proposed fishery impact levels to be low. A variety of monitoring

and evaluation tasks are specified in the FMEP to assess the abundance of steelhead, determine fishery effort and catch of steelhead, and angler compliance. A comprehensive review of the FMEP to evaluate whether the fisheries and listed steelhead populations are performing as expected will be done through regular creel surveys and angler contacts.

ODFW has submitted to NMFS an FMEP (*Summer Steelhead and Trout Sport Fisheries in Grande Ronde Basin, Imnaha Basin, and Snake River*) for recreational steelhead fisheries in the Grande Ronde, Imnaha, and Snake River Basins. The objective of this FMEP is to harvest known, hatchery-origin steelhead in a manner that does not jeopardize the survival and recovery of the SR steelhead ESU. Only adult hatchery-origin steelhead that are adipose fin clipped may be retained. Impact levels to listed steelhead populations in the ESU due to catch and release are specified in the FMEP. Population viability analyses and risk assessments in the FMEP indicate the extinction risk for listed steelhead under the proposed fishery impact levels to be less than 0.1 percent. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of steelhead, determine fishery effort and catch of steelhead, and angler compliance. A comprehensive review of the FMEP to evaluate whether the fisheries and listed steelhead populations are performing as expected will be done annually.

ODFW has provided NMFS a draft of the *Conservation Assessment of Steelhead Populations in Oregon* (Assessment) as part of the FMEP submittal. The Assessment provides the population viability analysis and risk assessment developed for ODFW's FMEPs. This Assessment is also available for review and comment.

IDFG has submitted to NMFS an FMEP (*The State of Idaho Resident Fish Species Fishing Program*) for inland, resident, recreational fisheries potentially affecting listed adult and juvenile SR steelhead. This includes fisheries occurring throughout Idaho including the Clearwater and Salmon River Basins. The objective of the FMEP is to provide sufficient sport fishing opportunities in a manner that does not jeopardize the survival and recovery of the ESU. The FMEP focuses mainly on impacts to juvenile steelhead. Impacts can result from the fisheries themselves and the potential impacts from the resident fish stocking program. Impact levels to listed steelhead populations in the ESU due to catch and release are specified in the FMEP. Population viability analyses and risk assessments in the FMEP indicate the extinction risk for listed steelhead under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEP to assess the abundance of steelhead, determine fishery effort and catch of steelhead, and angler compliance. A comprehensive review of the FMEP to evaluate whether the fisheries and listed steelhead populations are performing as expected will be done through regular creel surveys and angler contacts.

As specified in the July 10, 2000 ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead ESA 4(d) rule (65 FR 42422, July 10, 2000).

Dated: May 1, 2001.

Karen Salvini,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11321 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042501F]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) has submitted two Fisheries Management and Evaluation Plans (FMEP) pursuant to the protective regulations promulgated for Lower Columbia River (LCR) steelhead under the Endangered Species Act (ESA). The FMEPs specify the future management of inland recreational fisheries potentially affecting the LCR steelhead. This document serves to notify the public of the availability of the FMEPs for review and comment before a final approval or disapproval is made by NMFS.

DATES: Written comments on the draft FMEPs must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 4, 2001.

ADDRESSES: Written comments and requests for copies of the draft FMEPs should be addressed to Richard Turner, Sustainable Fisheries Division, Hatchery and Inland Fisheries Branch, 525 N.E. Oregon Street, Suite 510, Portland, OR 97232 or faxed to 503–872–2737. The documents are also available on the Internet at *http://www.nwr.noaa.gov/*. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Richard Turner, Portland, OR at phone number 503–736–4737 or e-mail: *rich.turner@noaa.gov*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Lower Columbia River Steelhead (*Oncorhynchus mykiss*) Evolutionarily Significant Unit (ESU).

Background

ODFW has submitted to NMFS two FMEPs: (1) *Hood River Basin Steelhead, Trout and Warmwater Fisheries, and (2) Lower Columbia River ESU Steelhead, Trout, Sturgeon and Warmwater Fisheries*, for inland recreational fisheries potentially affecting listed adult and juvenile LCR steelhead. These include fisheries occurring in the Hood River; the lower Willamette River and tributaries, including the Clackamas River; the Columbia River tributaries from below the Hood River downstream to the North end of Sauvie Island (near the town of St. Helens, OR); and the Sandy River. The objective of these FMEPs is to harvest known, hatchery-origin steelhead and other fish species in a manner that does not jeopardize the survival and recovery of the LCR steelhead ESU. All fisheries included in these FMEPs will be managed such that only hatchery-origin steelhead that are adipose fin clipped may be retained. Impacts levels to listed LCR steelhead are specified in the FMEPs. Population

viability analysis and risk assessments in the FMEPs indicate the extinction risk for listed steelhead under the proposed fishery impact levels to be low. A variety of monitoring and evaluation tasks are specified in the FMEPs to assess the abundance of steelhead, determine fishery effort and catch of steelhead and angler compliance. A review of compliance with the provisions of the FMEP will be conducted by ODFW annually and a comprehensive review to evaluate the effectiveness of the FMEPs will occur at a minimum every 5 years.

ODFW has provided NMFS a draft of the *Conservation Assessment of Steelhead Populations in Oregon*(Assessment) as part of the FMEP submittal. The Assessment provides the population viability analysis and risk assessment developed for ODFW's FMEPs. This Assessment is also available for review and comment.

As specified in the July 10, 2000 ESA 4(d) rule for salmon and steelhead (65 FR 42422), NMFS may approve an FMEP if it meets criteria set forth in § 223.203 (b)(4)(i)(A) through (I). Prior to final approval of an FMEP, NMFS must publish notification announcing its availability for public review and comment.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to activities associated with fishery harvest provided that an FMEP has been approved by NMFS to be in accordance with the salmon and steelhead ESA 4(d) rule (65 FR 42422, July 10, 2000).

Dated: April 30, 2001.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–11322 Filed 5–3–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

April 30, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://www.otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 347/348/847 is being increased for carryforward, and for swing and special shift from Category 359–C/659–C and 647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69503, published on November 17, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 30, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on May 4, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
347/348/847	2,129,138 dozen.
359–C/659–C [2]	1,282,727 kilograms.
647/648	1,209,265 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–11212 Filed 5–3–01; 8:45 a.m.

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Army

Final Programmatic Environmental Impact Statement (FPEIS) on Transportable Treatment Systems for Non-Stockpile Chemical Warfare Materiel

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This FPEIS has been prepared by the Army in compliance with the National Environmental Policy Act of 1969, regulations of the President's Council on Environmental Quality (40 CFR 1500–1508), and Army Regulation 200–2. As the Executive Agent for the DoD, the Army is responsible for destroying that portion of the nation's chemical warfare materiel referred to as ''non-stockpile'' chemical warfare materiel. This non-stockpile chemical warfare materiel must be destroyed in order to protect human health and

safety and the environment, comply with an international treaty, and carry out the mandate of the Congress. Non-stockpile chemical warfare materiel covered under this FPEIS includes: (1) Munitions containing chemical warfare agent or industrial chemicals, (2) chemical warfare agents or industrial chemicals contained in other than munitions configurations, and (3) chemical agent identification set items containing small qualities of pure or diluted agent used for training purposes. These items are currently buried and have the potential to be recovered at a number of locations in the United States and its territories and possessions. In addition, materiel has been recovered and is currently stored at several military installations throughout the United States.

DATES: Written public comments received within 30 days of the publication of the Environmental Protection Agency's Notice of Availability will be considered by the Army during final decision making.

ADDRESSES: Questions on the FPEIS or requests for copies of the document should be directed to: Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–NP (Mr. John K. Gieseking/PEIS), Aberdeen Proving Ground, Maryland 21010–4005 or via e-mail at john.gieseking@pmcd.apgea.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. John Gieseking at (410) 436–3768 or by fax at (410) 436–8737.

SUPPLEMENTARY INFORMATION: The Army has to decide whether it wants to complete development of transportable treatment systems and make the systems available for deployment in the field. The purpose of the FPEIS is to help the Army make this program-level decision with input from the public. The Army's Product Manager for Non-Stockpile Chemical Materiel has analyzed the potential environmental and socioeconomic consequences of two alternative courses of action in the FPEIS with respect to the Army's chemical demilitarization responsibilities. These alternatives are: (1) Completing development and testing of the transportable chemical treatment systems and making them available to be used where needed and appropriate to process non-stockpile chemical warfare materiel. Part of this alternative includes continuing to assess and evaluate the treatment potential of other technologies, methods, and processes, and (2) the no-action alternative, under which the Army would discontinue the development of the transportable treatment systems and continue to the storage of non-stockpile chemical warfare materiel until other suitable technologies are developed.

The Army's preferred alternative based on information in this FPEIS is to complete development of transportable chemical treatment systems and make them available for deployment. Subsequent environmental reviews by the appropriate DoD authorities would address the impacts of actual deployment to specific locations before a decision to deploy would be made. While the no-action alternative was evaluated, it could lead to the United States violating the Chemical Weapons Convention timetable requirements for destroying currently stored non-stockpile chemical warfare materiel.

A series of public meetings were held at nine locations during the public comment period on the Draft PEIS to afford the public the opportunity to provide oral and written comments. These meetings were held in Alexandria, Louisiana; Anchorage, Alaska; Edgewood, Maryland; Huntsville, Alabama; Indianapolis, Indiana; Salt Lake City, Utah; San Antonio, Texas; Santa Rosa, California; and Tampa, Florida. Comments made at these meetings and written comments received during the comment period were used in preparing the FPEIS.

The most frequent concern expressed in public comments was in regard to the possible treatment of secondary wastes from the transportable systems in commercial incinerators. The Army is presently looking into possible options other than commercial incineration for treating wastes from the transportable systems. Implementing the preferred alternative does not preclude developing these non-incineration options.

Copies of the FPEIS can be obtained by calling the Public Outreach and Information Office of the Office of the Program Manager for Chemical Demilitarization at 1–800–488–0648 or (410) 436–3445; fax (410) 436–8737; or e-mail at john.gieseking@pmcd.apgea.army.mil. The FPEIS may be accessed at the following web site: http://www-pmcd.apgea.army.mil/nscmp/index.html.

Dated: April 30, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 01–11293 Filed 5–3–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for the Final Environmental Impact Statement for Shock Trial of WINSTON S. CHURCHILL (DDG 81)

SUMMARY: The Department of the Navy (Navy), pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*; the regulations implementing NEPA issued by the Council on Environmental Quality (CEQ), 40 Code of Federal Regulations (CFR) Parts 1500–1508; Navy regulations implementing NEPA procedures (31 CFR 775); and Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions''; hereby announces its selection of the area of the Atlantic Ocean offshore of Mayport Naval Station, Jacksonville, Florida for the WINSTON S. CHURCHILL shock trial. NEPA sets out the procedures Federal agencies must follow in analyzing environmental impacts of major Federal actions within U.S. territory. Executive Order 12114 sets out the procedures Federal agencies must follow in analyzing environmental impacts of major Federal actions occurring outside U.S. territory in the global commons or within the territory of another nation. The Navy was the lead agency and the National Marine Fisheries Service (NMFS) was a cooperating agency for the Environmental Impact Statement (EIS).

The WINSTON S. CHURCHILL will be shock tested in a manner consistent with the alternative ''Shock Trial At An Offshore Location,'' described in the Final Environmental Impact Statement (FEIS) as the proposed action. The FEIS analyzed in detail three alternative offshore areas—Mayport, Florida; Norfolk, Virginia; and Pascagoula, Mississippi. The WINSTON S. CHURCHILL will be subjected to a series of up to four 10,000-pound explosive charge detonations sometime between May 1, 2001 and September 30, 2001, conducted at a rate of one per week to allow time to perform detailed inspections of the ship's systems.

The preferred alternative is to conduct a shock trial offshore of Mayport with mitigation to minimize risk to marine mammals and turtles. Although all three test areas meet minimum operational requirements, the Norfolk and Mayport test areas rank higher operationally, whereas the Pascagoula test area is significantly less suitable for supporting the shock trial. Environmentally, the risk of impacts to marine mammals and turtles is higher in the Norfolk test area,

and is lower, and about equal, at Mayport and Pascagoula. Therefore, considering all other aspects of the three candidate test areas to be about the same, conducting the shock trial at Mayport would meet the project purpose and need, satisfy operational requirements, and minimize environmental impacts. This Record of Decision leaves the selection of a single primary and two secondary test sites within the Mayport test area to be made based on aerial surveys of marine mammals and turtles done one to two days prior to the first detonation. This will ensure that the final test site selected for the shock trial poses the least possible risk to the marine environment.

Background

WINSTON S. CHURCHILL (DDG 81) is the third ship in a new flight of 23 ARLEIGH BURKE (DDG 51) class guided missile destroyers referred to as the Flight IIA ships. Each new class of ship or major upgrade must be tested to assess the survivability of the hull and the ship's systems and the capability of the ship to protect the crew after a near miss from an underwater explosion.

Section 2366 of title 10, United States Code (10 USC 2366) requires realistic survivability testing of a covered weapon system to ensure the vulnerability of that system under combat conditions is known. Realistic survivability testing means testing for the vulnerability of the ship in combat by firing munitions likely to be encountered in combat with the ship configured for combat, commonly referred to as ''Live Fire Test and Evaluation'' (LFT&E). The Flight IIA destroyer is a covered system because it is a major weapon system upgrade and the Navy established an approved LFT&E program to complete the vulnerability assessment of Flight IIA ships as required by 10 USC 2366. The LFT&E program includes three major areas that together provide for a complete and comprehensive evaluation of the survivability of Flight IIA ships in a near miss, underwater explosion environment. These areas are computer modeling and analysis, component testing, and an at-sea ship shock trial. Computer modeling and component tests provide valuable information regarding the survivability of the ship. However, only the at-sea shock trial would provide the real-time data necessary to fully assess ship survivability. A shock trial is a series of underwater detonations that propagate a shock wave through the ship's hull under deliberate and controlled conditions. A shock trial assesses a ship's survivability and vulnerability in combat situations by simulating near misses from underwater explosions. The Navy can then measure the effect of the shock wave on the hull, equipment, and personal safety features. This information is used to improve the shock resistance of the ship and follow-on ships of the class, thereby reducing the risk of crew injury.

Alternatives

NEPA requires Navy to evaluate a reasonable range of alternatives for implementing a proposed Federal action. The alternatives evaluated in the FEIS were no-action and conducting a shock trial at one of three potential offshore locations. Alternative offshore areas for shock testing were compared from operational and environmental perspectives. A preferred alternative was identified based on these comparisons.

Under the ''no action'' alternative only the computer modeling and component testing already completed under the LFT&E would be used to evaluate survivability. The no action alternative was determined to not be a reasonable alternative because it would not provide the information and data necessary to assess the survivability of the ship as required by 10 USC 2366. Therefore the ''no action'' alternative was not included in the comparative analysis of alternatives.

The EIS analysis focused on alternative offshore locations for a shock trial. The WINSTON S. CHURCHILL will be homeported on the East coast. Therefore, based on PERSTEMPO (Navy personnel tempo regulations requiring a ship to spend a day in homeport for every day away from homeport for crew quality of life and efficiency) considerations, offshore areas other than the East and Gulf coasts were eliminated from consideration. The Navy screened possible East Coast and Gulf of Mexico shock testing areas according to the following operational criteria: PERSTEMPO; proximity to a Naval Station with homeported ships; proximity to a Naval Air Station or other military airbase for aircraft and helicopters; proximity to a Naval Station support facility; proximity to a ship repair facility; proximity to an ordnance loading station; ship traffic; and weather and sea state. A detailed analysis concluded that three test areas could operationally support the shock trial—Mayport, Florida; Norfolk, Virginia; and Pascagoula, Mississippi. Operationally, the Norfolk and Mayport test areas rank higher and are about equal, whereas the Pascagoula test area ranks lower and is significantly less suitable for supporting the shock trial.

Potential environmental impacts of conducting a shock trial at the Mayport, Norfolk, and Pascagoula test areas were analyzed in the Environmental Consequences section of the FEIS. Most environmental impacts of the shock trial would be similar at Mayport, Norfolk, or Pascagoula. However, the three areas differ significantly with respect to potential impacts on marine mammals and sea turtles. Overall, based on the best available scientific data, the risk of mortality and injury to marine mammals and turtles would be higher at Norfolk and lower, and about equal, at Mayport and Pascagoula. Considering all components of the physical, biological, and socioeconomic environment, potential impacts would be less at Mayport or Pascagoula than at Norfolk.

Environmental Impacts

Potential environmental impacts of conducting a shock trial at the Mayport, Norfolk, and Pascagoula test areas are analyzed in the FEIS. The analysis demonstrated that most environmental impacts of the shock trial would be less than significant and were similar at Mayport, Norfolk, or Pascagoula. However, the three areas differ with respect to potential significant impacts on marine mammals and sea turtles.

Potentially significant direct impacts on marine mammals include mortality, injury, and disruption of hearing-based behaviors. Most marine mammals would be detected during pre-detonation aerial surveys, surface observations, and passive acoustic monitoring, minimizing the risk of death or injury. Application of mitigation measures would further reduce risk by allowing selection of a test site with low densities of marine mammals within each of the three test areas. Even with these mitigation measures, there are differences in risk levels among the three test areas due to differences in area-wide marine mammal densities and species composition. Overall, the risk to marine mammals would be higher at Norfolk and lower and about equal at Mayport and Pascagoula.

Potential impacts to sea turtles also include mortality, injury, and disruption of hearing-based behaviors. At Mayport, Norfolk, or Pascagoula, mitigation methods would result in selection of a test site with low densities of sea turtles. However, there are differences in risk among the three areas due to differences in sea turtle densities. Overall, the results indicate that the risk to turtles would be higher at Norfolk

and lower but about equal at Mayport and Pascagoula.

Considering all components of the physical, biological, and socioeconomic environment, potential impacts would be less at Mayport or Pascagoula than at Norfolk.

Mitigation

A detailed Marine Mammal and Sea Turtle Protection/Mitigation Plan is presented in the FEIS. The plan includes the same type of mitigation and monitoring efforts that were used successfully during the shock trial of USS JOHN PAUL JONES in 1994 off the coast the southern California where marine mammal population densities are significantly greater than at the Mayport, Norfolk, or Pascagoula test areas. No deaths or injuries of marine mammals were detected during the USS JOHN PAUL JONES shock trial. The mitigation plan for the shock trial would avoid impacts and minimize risk to marine mammals and sea turtles in three ways:

Site selection. Initial, general site selection would be based on operational requirements and surveys. Within the test area selected for the shock trial, aerial surveys would be conducted and satellite imagery would be analyzed to select a small test site having low densities of marine mammals and turtles.

Pre-detonation monitoring. Prior to each detonation, aerial and shipboard observers would search for marine mammals and turtles at the selected test site. Passive acoustic surveys would also be used to detect marine mammal calls. If any marine mammal or sea turtle were detected within the Safety Range (a 2 nm radius around the detonation point), testing would be postponed. Testing would also be postponed if large.

Sargassum rafts, debris lines, or jellyfish concentrations (indicators that turtles may be present) were detected in the Safety Range, or if flocks of seabirds or large fish schools were detected within 1 nm of the detonation point. Postponement would also occur in certain circumstances when a marine mammal or turtle is detected in a Buffer Zone extending from 2 to 3 nm from the detonation point. Detonation would not occur until monitoring indicated that the Safety Range is clear of detectable marine mammals, sea turtles, large *Sargassum* rafts and debris lines, and large concentrations of jellyfish.

Post-detonation monitoring. After the explosion, aerial and shipboard observers would survey the test site. A Marine Animal Recovery Team led by a marine mammal veterinarian would document and attempt to recover any dead animals and monitor any animals that appear to be injured. If the survey showed that marine mammals or turtles were killed or injured or if any marine mammals or turtles are detected in the Safety Range immediately following a detonation, testing would be halted until procedures for subsequent detonations could be reviewed and changed as necessary. Communications with stranding network personnel would be maintained throughout the shock trial period.

Coordination and Consultation with the NMFS

Because the NMFS has jurisdiction by law with respect to issues related to endangered species and marine mammals, the NMFS acted as a cooperating agency on the EIS. In addition to a review and comment role, the NMFS had two regulatory roles relative to the proposed shock trail. First, the NMF is responsible for administering the Endangered Species Act as it applies to listed sea turtles and marine mammals. The DEIS served as the Biological Assessment which the Navy submitted to the NMFS, requesting formal consultation under Section 7 of the Endangered Species Act (ESA), (16 USC 1531 *et seq.*). The NMFS subsequently issued a Biological Opinion, dated October 10, 2000, which completed the consultation process under ESA. The NMFS also has a regulatory role under the Marine Mammal Protection Act (MMPA) (16 USC 1361 *et seq.*) When the DEIS was published, the Navy submitted a separate application to the NMFS for an ''incidental take authorization'' under section 101(a)(5)(A) of the MMPA. The NMFS published a Proposed Rule in the **Federal Register** on December 12, 2000 (65 FR 77546). The Proposed Rule specified mitigation, monitoring, and reporting requirements for the shock trial. A Final Rule must be issued by NMFS before the shock trial can proceed.

Comments Received on the FEIS

After the FEIS was distributed to the public for a 30-day review period ending on March 26, 2001, the Navy received one comment letter. Environmental Protection Agency commented that with properly executed mitigation as discussed in the EIS, that Mayport represents the best compromise among the three testing locations.

Conclusion

Shock testing the WINSTON S. CHURCHILL in an area offshore of Mayport, Florida is the alternative that best meets the project purpose and need, satisfies operational criteria, and minimizes environmental impacts. Potentially significant direct impacts resulting from the test include mortality, injury, and acoustic harassment of marine mammals and sea turtles. While numbers have been calculated to define the potential lethal, injurious, and harassment take that might occur, it is expected that the mitigation and monitoring program will minimize the risk to marine mammals and sea turtles.

The ''No Action'' alternative would avoid all environmental impacts of a shock trial and is the environmentally preferred alternative. It does not, however, support the development of the best assessment of the survivability characteristics of the ship.

Dated: April 27, 2001.

Paul A. Schneider,

Assistant Secretary of the Navy, (Research, Development and Acquisition) (Acting).

[FR Doc. 01–11270 Filed 5–3–01; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision,

extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 30, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Field Test Activities and the 2003–2004 Full-Scale Schools and Staffing Survey (SASS): Local Educational Agency (LEA), Principal, School, Teacher, Library.

Frequency: 2 series of field tests and the full-scale SASS.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,764.

Burden Hours: 2,232.

Abstract: The National Center for Education Statistics (NCES) will use the field test to assess data collection procedures that are planned for the next full-scale SASS in 2003–2004. Policymakers, researchers and practitioners at the national, state and local levels use SASS data which are representative at the national and state levels. Respondents include public and private school principals, teachers and school and LEA staff persons.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at at her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11203 Filed 5–3–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 7, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 3, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: April 30, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: School Renovation, IDEA, and Technology Grant Application.

Abstract: ED will use the information collected through this application to award grants to approximately 52 State educational agencies that will conduct competitive grant processes to award subgrants to eligible local educational agencies (LEAs). The information will also be used to describe to the Congress and the public how these grants are being used.

Additional Information: The Department of Education is requesting emergency clearance from OMB for the School Renovation, Individuals with Disabilities Education Act (IDEA), and Technology Grant Application due to an unanticipated event and possibly causing public harm. Since the passage of the FY 2001 Appropriations Act with this program's enactment, the Department has been meeting with interested groups and with contact persons in the States to determine how

best to implement the new program. Funds appropriated for these grants will become available on July 1, 2001. Emergency approval is requested by May 7, 2001 so that States may start their subgrant process as soon as possible and some grantees may have their awards in time to undertake school renovation and repair projects during the summer. Summer is the primary season for LEAs to undertake school facility renovation projects, when schools are not otherwise in use. Failure to make awards on this schedule will likely cause substantial harm to some eligible LEAs since they may be forced to delay their school renovation projects until the following year.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 52; Burden Hours: 104.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her internet address Kathy.Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11204 Filed 5–3–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 4, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Lauren_Wittenberg@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 30, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Centers for International Business Education Program.

Frequency: Once every four years.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 50.

Burden Hours: 750.

Abstract: These programs can be used to become nationally recognized centers for the teaching of improved business techniques, strategies and methodologies that emphasize the international context in which business is transacted.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–11202 Filed 5–3–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Supplement to the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada

AGENCY: Department of Energy (DOE).

ACTION: Notice of availability and opportunity for comment.

SUMMARY: The Department of Energy (DOE) announces the availability of a Supplement to the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (Draft EIS) (DOE/EIS–0250D–S). The Department has prepared this Supplement in accordance with the Nuclear Waste Policy Act of 1982, as amended (NWPA), the National Environmental Policy Act of 1969, as amended (NEPA), the Council on Environmental Quality regulations that implement the procedural provisions of NEPA, and the DOE procedures implementing NEPA. The Council on Environmental Quality NEPA regulations state that an agency may prepare a supplement when it determines that the purposes of NEPA will be furthered by doing so. As anticipated, design enhancements of the proposed repository at Yucca Mountain have evolved since DOE issued the Draft EIS in August 1999. Accordingly, DOE has issued a Supplement to the Draft EIS to address the most recent information on design evolution,

including enhancements in design details and operating modes, and associated potential environmental impacts. DOE will provide the public an opportunity to comment on the Supplement and conduct hearings on the Supplement, as described below.

DATES: Comments on the Supplement to the Draft EIS will be accepted during a 45-day public comment period, which ends on June 25, 2001. DOE will consider comments submitted after June 25, 2001, to the extent practicable.

ADDRESSES: DOE will conduct public hearings on the Supplement in Amargosa Valley, Las Vegas, and Pahrump, Nevada. Public hearing locations and further details are provided below in this Notice under ''Public Hearings and Invitation to Comment.''

Written comments and requests for further information on the Supplement to the Draft EIS or the public hearings, and requests for copies of the document and included CD–ROM should be directed to: Dr. Jane Summerson, EIS Document Manager, M/S 010, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 30307, North Las Vegas, Nevada 89036–0307, Telephone 1–800–967–3477, Facsimile 1–800–967–0739.

Written comments via facsimiles should include the following identifier: ''Yucca Mountain Supplement to the Draft EIS.'' Addresses and locations where the Supplement will be available for public review are listed in this Notice under ''Availability of the Supplement to the Draft EIS.''

Electronic Format: Internet

Written comments on or requests for copies of the document may also be submitted over the Internet via the Yucca Mountain Project website at *http://www.ymp.gov*, under the listing ''Environmental Impact Statement.''

FOR FURTHER INFORMATION CONTACT: Dr. Jane Summerson, EIS Document Manager, M/S 010, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 30307, North Las Vegas, Nevada 89036–0307, Telephone 1–800–967–3477, Facsimile 1–800–967–0739.

For general information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, Telephone 1–202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: In August 1999, DOE issued the Draft Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada (Draft EIS), in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Nuclear Waste Policy Act, as amended (42 U.S.C. 10101 *et seq.*). The U.S. Environmental Protection Agency (EPA) issued a Notice of Availability (64 FR 44217) of the Draft EIS on August 13, 1999, initiating a public comment period that ended on February 28, 2000. During the 199-day comment period, DOE held 21 public hearings across the United States. The Draft EIS describes the Proposed Action to construct, operate and monitor, and eventually close a geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste at Yucca Mountain. The Draft EIS also describes the potential environmental impacts associated with the Proposed Action.

For the Draft EIS, DOE based the analysis on the repository design described in the Viability Assessment of a Repository at Yucca Mountain. The Draft EIS discussed ongoing evaluations that could result in modifications to that design.

As DOE anticipated in the Draft EIS, repository design has continued to evolve. Although the fundamental aspects of the repository design have not changed from those discussed in the Draft EIS, design options and operating modes (ways in which to operate the repository) are being explored to reduce uncertainties and improve long-term repository performance and operational safety and efficiency. DOE has documented the evolution to date of its design efforts in the Yucca Mountain Science and Engineering Report: Technical Information Supporting Site Recommendation Consideration (YMS&ER), which describes the current design (which the Supplement calls the S&ER flexible design) and a range of possible repository operating modes. The YMS&ER also summarizes current technical information that the Secretary of Energy will use to determine whether to recommend approval of the Yucca Mountain site to the President for development as a repository.

Evaluations are underway to analyze the effect of various operating modes on repository performance. The flexible design discussed in the YMS&ER includes the ability to operate the repository in a range of operating modes that address higher and lower temperatures and associated humidity conditions. The higher-temperature operating mode means that at least a portion of the emplacement drift rock wall would have a maximum temperature above the boiling point of water at the elevation of the repository [96°C (205°F)]. Examples of the lower-temperature operating modes include conditions under which the drift rock wall temperatures would be below the boiling point of water, and conditions under which the waste package surface temperature would not exceed 85°C (185°F). To bound the impact analysis, DOE considered conditions under which the rock wall temperatures would be above the boiling point of water, and conditions under which waste package surface temperatures would not exceed 85°C.

DOE prepared the Supplement to update information presented in the Draft EIS. The Supplement evaluates potential environmental impacts that could occur, based on the design options and range of possible operating modes presented in the YMS&ER. The Supplement compares the impacts associated with the S&ER flexible design to the impacts presented in the Draft EIS.

The basis for the analytical scenarios presented in the Draft EIS was the amount of commercial spent nuclear fuel and its associated thermal output or load that DOE would emplace per unit area of the repository (called areal mass loading). In the Draft EIS, DOE evaluated three thermal load scenarios including high thermal load, a relatively high emplacement density of commercial spent nuclear fuel (85 metric tons of heavy metal (MTHM) per acre), intermediate thermal load (60 MTHM per acre), and low thermal load (25 MTHM per acre). The analytical scenarios described in the Draft EIS were not intended to place a limit on the choices among alternative designs because DOE expected that the repository design would continue to evolve. Rather, DOE selected these scenarios to represent the range of foreseeable design features and operating modes and to ensure that it considered the associated range of potential environmental impacts.

In contrast to focusing on thermal loads, the S&ER flexible design focuses on controlling the temperatures of the rock between the drifts, the waste package surfaces, and the drift walls to meet thermal management goals established for possible repository operating modes. To meet these thermal goals, the S&ER flexible design uses a linear thermal load (heat output per unit length of the emplacement drift) and emplaces waste packages relatively

closer together than the Draft EIS design. Linear thermal load is expressed in terms of kilowatts per meter.

As with the thermal load analytical scenarios analyzed in the Draft EIS, the range of operating modes under the S&ER flexible design is representative of the range of foreseeable future design features and operating modes. The conservative estimates of the associated potential environmental impacts in the Supplement encompass or bound the potential impacts of foreseeable future repository design evolution.

The Supplement focuses on modifications to the repository design and operating modes addressed in the Draft EIS; it does not analyze aspects of the Proposed Action that have not been modified, such as the transportation of spent nuclear fuel and high-level radioactive waste, or the No-Action Alternative. DOE will address all aspects of the Proposed Action and the No-Action Alternative in the Final EIS. Because repository design has evolved from that considered in the Draft EIS, the Final EIS will evaluate only the S&ER flexible design, including the reasonable range of operating modes, and any enhancements to the flexible design developed as the result of ongoing analyses. DOE invites comments on its intention not to address the Draft EIS design in the Final EIS. DOE will respond to comments on the Draft EIS and on the Supplement in the Final EIS.

Public Hearings and Invitation to Comment

The public is invited to provide oral and written comments on the Supplement to the Draft EIS during the public comment period that ends on June 25, 2001. DOE will consider comments submitted during the comment period in preparation of the Final EIS. Comments submitted after June 25, 2001 will be considered to the extent practicable. DOE will hold public hearings to receive oral and written comments from members of the public at the following times and locations:

May 31, 2001: Longstreet Inn & Casino, Highway 373, Amargosa Valley, Nevada 89020; 5:00 pm–9:00 pm—Poster Session, 6:00 pm–9:00 pm—Hearing

June 5, 2001: Suncoast Hotel & Casino, 9090 Alta Drive, Las Vegas, Nevada 89144; 5:00 pm–9:00 pm—Poster Session, 6:00 pm–9:00 pm—Hearing

June 7, 2001: Bob Ruud Community Center, 150 North Highway #160, Pahrump, Nevada 89048; 5:00 pm–9:00 pm—Poster Session, 6:00 pm–9:00 pm—Hearing

This information will be available on the Yucca Mountain website at (*http://www.ymp.gov*) and on the toll-free information line at 1–800–967–3477.

Each of the public hearings will include a brief session in which an overview of the Supplement will be presented, a general question-and-answer session, and an opportunity to provide comments for the record. Members of the public who plan to present oral comments are asked to register in advance by calling 1–800–967–3477.

Availability of the Supplement to the Draft EIS

Copies of the Supplement are being distributed to Federal, State, and Indian tribal representatives, and other organizations and individuals who have indicated an interest in the EIS process. Copies of this document may be requested by calling 1–800–967–3477 or over the Internet via the Yucca Mountain Project website (*http://www.ymp.gov*). Both the Supplement and the Draft EIS will be available via the Internet on the DOE NEPA website at (*http://tis.eh.doe.gov/nepa*), under the listing DOE NEPA Analyses, or on the Yucca Mountain Project web site listed above. The availability of the Yucca Mountain Science and Engineering Report will be announced in a separate Federal Register Notice. That report will be available or can be requested on the Yucca Mountain Project website (*http://www.ymp.gov*) or by calling 1–800–967–3477.

Copies of references considered in preparation of the Supplement and Draft EIS, including the Yucca Mountain Science and Engineering Report, will be available at the following Public Reading Rooms: University of Nevada—Las Vegas, Nevada; University of Nevada—Reno, Nevada; Beatty Yucca Mountain Science Center, Nevada; Pahrump Yucca Mountain Science Center, Nevada; and the DOE Headquarters Office in Washington, D.C. Addresses of these Public Reading Rooms and of other Public Reading Rooms and libraries where the Supplement and the Draft EIS will be available for public review are listed below.

Public Reading Rooms

Inyo County—Contact: Andrew Remus; (760) 878–0447; Inyo County Yucca Mountain Repository Assessment Office; 168 North Edwards St.; Post Office Drawer L; Independence, CA 93526.

Oakland Operations Office—Contact: Laura Martinez; (510) 637–1762; U.S. Department of Energy Public Reading Room; EIC; 1301 Clay St., Room 700N; Oakland, CA 94612–5208.

National Renewable Energy Laboratory—Contact: John Horst; (303) 275–4709; Public Reading Room; 1617 Cole Blvd.; Golden, CO 80401.

Rocky Flats Public Reading Room—Contact: Gary Morrell; (303) 469–4435; College Hill Library; 3705 112th Ave. B121; Westminster, CO 80030.

Headquarters Office—Contact: Carolyn Lawson; (202) 586–3142; U.S. Department of Energy; Room 1E–190, Forrestal Building; 1000 Independence Ave., SW; Washington, DC 20585.

Atlanta Support Office—Contact: Nancy Mays/Laura Nicholas; (404) 347–2420; Department of Energy; Public Reading Room; 730 Peachtree St., Suite 876; Atlanta, GA 30308–1212.

Southeastern Power Administration—Contact: Joel W. Seymour; (706) 213–3800; U.S. Department of Energy; Reading Room; Samuel Elbert Building; 2 South Public Square; Elberton, GA 30635–2496.

Boise State University Library—Contact: Adrien Taylor; (208) 426–1737; Government Documents; 1910 University Dr.; P.O. Box 46; Boise, ID 83707–0046.

Idaho Operations Office—Contact: Brent Jacobson; (208) 526–1144; Public Reading Room; 1776 Science Center Dr.; Idaho Falls, ID 83402.

Chicago Operations Office—Contact: John Shuler; (312) 996–2738; Document Department; University of Illinois at Chicago; 801 South Morgan St.; Chicago, IL 60607.

Strategic Petroleum Reserve Project Management Office—Contact: Deanna Harvey; (504) 734–4316; U.S. Department of Energy; SPRPMO/SEB Reading Room; 850 Commerce Road, East; New Orleans, LA 70123.

Lander County—Contact: Mickey Yarbo; (775) 635–2882; 315 S. Humboldt St.; Battle Mountain, NV 89820.

Beatty Yucca Mountain Science Center—Contact: Marina Anderson; (775) 553–2130; 100 North E Ave.; Beatty, NV 89003.

Lincoln County—Contact: Jason Pitts; (775) 726–3511; Box 1068; 176 Clover St.; Caliente, NV 89008.

Nevada State Clearinghouse—Contact: Heather Elliot; (775) 684–0209; Department of Administration; 209 E. Musser Street, Room 200; Carson City, NV 89701.

White Pine County—Contact: Josie Larson; (775) 289–2033; 959 Campton St.; Ely, NV 89301.

Eureka County—Contact: Leonard Fiorenzi; (775) 237–5372; 701 S. Main St.; (P.O. Box 714); Eureka, NV 89316.

Churchill County—Contact: Alan Kalt; (775) 423–5136; 155 North Taylor St., Suite 182; Fallon, NV 89046–2478.

Esmeralda County—Contact: George McCorkell; (775) 485–3419; Repository Oversight Program; 233 Crook St.; P.O. Box 295; Goldfield, NV 89316.

Mineral County—Contact: Judy Shankle; (775) 945–2484; First & A Streets; (*Hand Deliverables Only*); (P.O. Box 1600); Hawthorne, NV 89415.

Clark County—Contact: Dennis Bechtel; (702) 455–5178; 500 South Grand Central Parkway #3012; (P.O. Box 551751); Las Vegas, NV 89155–1751.

Las Vegas, Nevada—Contact: Reference Desk; (702) 895–3409; University of Nevada Las Vegas; James R. Dickinson Library; Government Publications; 4505 Maryland Parkway; Las Vegas, NV 89154–7013.

Las Vegas Yucca Mountain Science Center—Contact: Claire Whetsel; (702)295–1312; 4101-B Meadows Lane; Las Vegas, NV 89107.

Nye County—Contact: Les Bradshaw; (775) 727–7727; c/o Department of Natural Resources and Federal Facilities; 1210 E. Basin Ave., Suite 6; Pahrump, NV 89048.

Pahrump Yucca Mountain Science Center—Contact: John Pawlak; (775) 727–0896; 1141 South Highway 160; Pahrump NV, 89041.

Reno, Nevada—Contact: Kathie Brinkerhoff; (775) 784–6500; University of Nevada, Reno; The University of Nevada Libraries; Business and Government Information Center M/S 322; 1664 N. Virginia St.; Reno, NV 89557–0044.

Albuquerque Operations Office—Contact: Dan Berkley; (505) 277–7180; U.S. DOE Contract Reading Room; University of New Mexico; Zimmerman Library; Albuquerque, NM 87131–1466.

Fernald Area Office—Contact: Diane Rayer;(513)648–7480; U.S. Department of Energy; Public Information Room;10995 Hamilton-Cleves Highway M/S 78; Harrison, OH 45030.

Southwestern Power Administration—Contact: Marti Ayres; (918) 595–6609; U.S. Department of Energy; Public Reading Room; 1 West 3rd, Suite 1600; Tulsa, OK 74103.

Bonneville Power Administration—Contact: Bill Zimmerman/Darlene Freestad; (503) 230–7334; U.S. Department of Energy; BPA–C–ACS–1; 905 NE 11th St.; Portland, OR 97232.

Pittsburgh Energy Technology Center—Contact: Ann C. Dunlap; (412) 386–6167; U.S. Department of Energy; Building 922/M210; Cochrans Mill Rd.; Pittsburgh, PA 15236–0940.

Savannah River Operations Office—Contact: Pauline Connell; (803) 725–2497; Gregg-Graniteville Library; University of South Carolina-Aiken; 171 University Parkway; Aiken, SC 29801.

University of South Carolina—Contact: William Suddeth; (803) 777–4841; Thomas Cooper Library; Documents/Microforms Department; Green and Sumter Streets; Columbia, SC 29208.

Oak Ridge Operations Office—Contact: Walter Perry; (865) 241–4780; U.S. Department of Energy; Public Reading Room; P.O. Box 2001; American Museum of Science and Energy; 230 Warehouse Rd.; Oak Ridge, TN 37831.

Southern Methodist University—Contact: Stephen Short; (214) 768–2561; Central Union Libraries Fondren Library; Government Information; Airline and McFarland Streets; Dallas, TX 75275–0135.

University of Utah—Contact: Walter Jones; (801) 581–8863; Marriott Library Special Collections; 295 South 15th East; Salt Lake City, UT 84112–0860.

Richland Operations Center—Contact: Terri Traub; (509) 372–7443; U.S. Department of Energy; Public Reading Room; 2770 University Drive; Room 101L; PO Box 999; Mailstop H2–53; Richland, WA 99352.

Issued in Washington, DC, April 27, 2001.

Lake Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 01–11275 Filed 5–3–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Industry Materials of the Future (Knowledge Base or Core Activities)

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of financial assistance solicitation.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office is seeking applications for cost-shared research and development of materials or materials processing methods, in accordance with the Program Plan for the Industrial Materials for the Future Program, available at www.oit.doe.gov. This will be a national effort to research, design, develop, engineer, and test new and improved materials to achieve improvements in energy efficiency, emissions and waste reduction, productivity, product quality, and global competitiveness. Proposals are solicited from universities, and not-for-profit research institutes for research and development leading to new materials and processing methods for eventual use in the Industries of the Future. Universities, and not-for-profits are required to form partnerships for technology development and to work with industry to ensure that core activities will ultimately lead to successful applications in industry. National Labs may partner in these activities but cannot be the prime recipient. Multi-partner collaborations between industry, university, and National Laboratory participants are encouraged. National laboratories will not be eligible for an award under this solicitation.

DATES: The issuance date of Solicitation Number DE–PS07–01ID14123 will be on April 26, 2001. The deadline for receipt of applications will be approximately on May 31, 2001.

ADDRESSES: The solicitation in its full text will be available on the Internet at the following URL address: *http://www.id.doe.gov/doeid/PSD/proc-div.html* or *http://e-center.doe.gov.*

Applications should be submitted to: Seb Klein, Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401–1563.

FOR FURTHER INFORMATION CONTACT: Seb Klein, Contract Specialist, kleinsm@id.doe gov.

SUPPLEMENTARY INFORMATION: The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577).

The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086.

Issued in Idaho Falls.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–11274 Filed 5–3–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC01–93–000]

Edison Mission Energy on Behalf of Its Public Utility Subsidiaries; Notice of Filing

April 30, 2001.

Take notice that on April 30, 2001, Edison Mission Energy (EME), on behalf of its public utility subsidiaries, tendered for filing an Application pursuant to Section 203 of the Federal Power Act for approval of a transaction whereby EME's stock will be transferred to a new company which will be a subsidiary of The Mission Group. The purpose of the proposed transaction is to permit Edison International (EIX) to

obtain the financing needed to meet its near-term obligations. The transaction proposed in this Application is intended to permit the unregulated subsidiaries to obtain funds needed to assist the parent. The filing relates to the possible bankruptcy of SCE and/or EIX. Applicants further request that the Commission issue an order approving this Application by no later than May 14, 2001.

Edison Mission Energy served a copy of the Application on the California Public Utilities Commission and on California Governor Gray Davis.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before May 10, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11252 Filed 5–3–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–198–000, et al.]

Ameren Energy Generating Company, et al.; Electric Rate and Corporate Regulation Filings

April 26, 2001.

Take notice that the following filings have been made with the Commission:

1. Ameren Energy Generating Company

[Docket No. EG01–198–000]

Take notice that on April 20, 2001, Ameren Energy Generating Company (AEG), One Ameren Plaza, 1901 Chouteau Plaza, P.O. Box 66149, St. Louis, Missouri, 63166–6149, filed with the Federal Energy Regulatory Commission an application for determination of continuing exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

AEG states that effective as April 10, 2001, it acquired the Kinmundy Unit No. 1, a 115 MW dual fuel (oil and natural gas) combustion turbine generator located at Kinmundy, Illinois. AEG states that all of the electric energy from the facility is and will be sold at wholesale.

Comment date: May 17, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Citizens Communications Company

[Docket No. ER00–3211–003, OA01–5–000]

Take notice that on April 16, 2001, in compliance with the Commission's March 16, 2001 order in this proceeding, Citizens Communications Company (Citizens) tendered for filing revised and original tariff sheets which provide updated standards of conduct governing Citizens' Vermont Electric Division (VED). Citizens also filed a revised VED organization chart and job descriptions. Citizens made several changes to reflect updates to the standards of conduct, organization chart, and job descriptions.

A copy of this filing has been served on the service list in this docket, and on each of Citizens' wholesale customers, as identified in the Certificate of Service attached to the filing. In addition, a copy is available for inspection at the offices of Citizens' VED during regular business hours.

Comment date: May 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. MidAmerican Energy Company

[Docket No. ER01–985–002]

Take notice that on April 23, 2001, MidAmerican Energy Company (MidAmerican), 401 Douglas Street, P.O. Box 778, Sioux City, Iowa 51102, tendered for filing Order 614 a Network Integration Transmission Service Agreement and Network Operating Agreement, designated as Substitute 1st Revised Service Agreement No. 53, entered into by MidAmerican and the City of Sergeant Bluff, Iowa, dated December 29, 2000. The Agreement replaces the Network Integration Transmission Service Agreement and Network Operating Agreement dated April 7, 1997, between the parties.

MidAmerican requests an effective date of January 1, 2001 for the Agreement and seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on the Iowa Utilities Board and the City of Sergeant Bluff, Iowa.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Canal Electric Company

[Docket No. ER01–1134–001]

Take notice that on April 23, 2001, Canal Electric Company (Canal) tendered for filing the Amended and Restated Seventh Amendment to the Power Contract between Canal and its retail affiliates Cambridge Electric Light Company and Commonwealth Electric Company (Canal Rate Schedule FERC No. 33, the Seabrook Power Contract). The Amended and Restated Seventh Amendment complies with the Federal Energy Regulatory Commission's Order Accepting for Filing and Suspending Amendment, dated March 29, 2001, which accepted, subject to refund, Canal's filing for effectiveness as of April 1, 2001, and required Canal to revise the Amendment's schedule of annual decommissioning expenses to reflect Canal's current obligation as determined by the New Hampshire Nuclear Decommissioning Financing Committee.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Consumers Energy Company

[Docket No. ER01–1285–001]

Take notice that on April 23, 2001 Consumers Energy Company (Consumers) tendered for filing a First Revised Service Agreement No. 52 designated as required by Section 35.9 of the Commission's rules, as directed by the Commission in its April 6, 2001 Order in this docket.

The Service Agreement's effective date is February 5, 2001. Copies of the filing were served upon those on the service list in this proceeding and upon the Customer.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York Independent System Operator, Inc.

[Docket Nos. ER01–1740–001]

Take notice that on April 13, 2001, the New York Independent System Operator, Inc. (NYISO) tendered for filing revisions to its Market

Administration and Control Area Services Tariff (Services Tariff) in order to correct improperly numbered sheets in its April 5, 2001 filing in the above-captioned docket. The NYISO has requested an effective date of May 1, 2001 for the filing.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Comment date: May 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER01–1841–000]

Take notice that on April 23, 2001, Arizona Public Service Company (APS) tendered for filing Service Agreements to provide Long-Term Firm Point-to-Point Transmission Service to Arizona Electric Power Cooperative under APS' Open Access Transmission Tariff.

A copy of this filing has been served Arizona Electric Power Cooperative, and the

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Company

[Docket No. ER01–1838–000]

Take notice that on April 20, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Energy USA–TPC Corp. (Energy USA).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Non-Firm Point-to-Point Transmission Service to Energy USA pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of April 21, 2001.

Copies of this filing have been sent to Energy USA, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: May 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Company

[Docket No. ER01–1840–000]

Take notice that on April 23, 2001, Florida Power & Light Company (FPL) tendered for filing a Service Agreement with Cargill-Alliant, LLC for service pursuant to Tariff No. 1 for Sales of Power and Energy by Florida Power & Light and a Service Agreement with Calpine Energy Service, L.P. for service pursuant to FPL's Market Based Rates Tariff. FPL requests that the Service Agreements be made effective on April 13, 2001.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER01–1842–000]

Take notice that on April 23, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing the First Revised Amendment to Service Agreement for Network Integration Transmission Service entered into with MidAmerican Energy Company pursuant to Illinois Power's Open Access Transmission Tariff. Illinois Power requests an effective date of March 13, 2001 for the First Amendment and accordingly seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to MidAmerican Energy Company.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Illinois Power Company

[Docket No. ER01–1843–000]

Take notice that on April 23, 2001, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 65251–2200, tendered for filing a Firm Long Term Point to Point Transmission Service Agreement entered into with Entergy Power Marketing Corporation pursuant to Illinois Power's Open Access Transmission Tariff. Illinois Power requests an effective date of April 1, 2001 for the Agreements. Illinois Power states that a copy of this filing has been sent to Entergy Power Marketing Corporation.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Black Hills Generation, Inc.

[Docket No. ER01–1844–000]

Take notice that on April 23, 2001, Black Hills Generation, Inc. (Black Hills) tendered for filing an application for an order authorizing Black Hills to make wholesale sales of electric power at market-based rates.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER01–1845–000]

Take notice that on April 23, 2001, Public Service Company of New Mexico (PNM) tendered for filing First Revised Sheets No. 90, 91, and 92 of PNM's Open Access Transmission Tariff (OATT) to incorporate a change to the pricing methodology for energy provided by PNM for Schedule 4—Energy Imbalance Service. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to all PNM Tariff customers, all entities that have pending interconnection requests with PNM and the New Mexico Public Regulation Commission.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER01–1846–000]

Take notice that on April 23, 2001, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and Duke Energy Trading & Marketing, L.L.C. (Duke Energy), dated April 18, 2001. This Service Agreement specifies that Duke Energy has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5.

The Sales Tariff allows GPU Energy and Duke Energy to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of April 18, 2001 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Allegheny Energy Supply Company, LLC

[Docket No. ER01–1847–000]

Take notice that on April 23, 2001, Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) tendered for filing Service Agreement No. 121 to add one (1) new Customer to

the Market Rate Tariff under which Allegheny Energy Supply offers generation services.

Allegheny Energy Supply requests a waiver of notice requirements for an effective date of March 23, 2001 for service to the California Department of Water Resources. Confidential treatment of this agreement, pursuant to 18 C.F.R. § 388.112, has been requested.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Michigan Electric Transmission Company

[Docket No. ER01–1848–000]

Take notice that on April 23, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing executed Service Agreements for Firm and Non-Firm Point-to-Point Transmission Service with Mirant Americas Energy Marketing, LP and CMS-MS&T Michigan, L.L.C. (Customers) pursuant to the Joint Open Access Transmission Service Tariff filed on February 22, 2001 by Michigan Transco and International Transmission Company (ITC). Michigan Transco is requesting an effective date of April 1, 2001.

Copies of the filed agreement were served upon the Michigan Public Service Commission, ITC and the Customer.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Michigan Electric Transmission Company

[Docket No. ER01–1849–000]

Take notice that on April 23, 2001, Michigan Electric Transmission Company (Michigan Transco) tendered for filing an executed Service Agreement for Network Transmission Service with Wolverine Power Marketing Cooperative (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on February 22, 2001 by Michigan Transco and International Transmission Company (ITC).

Michigan Transco is requesting an effective date of April 16, 2001. Customer is taking service under the Service Agreement in connection with Consumers Energy Company's (Consumers) Electric Customer Choice program.

Copies of the filed agreement were served upon the Michigan Public Service Commission, ITC, Consumers and the Customer.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Dayton Power and Light Company

[Docket No. ER01–1850–000]

Take notice that on April 23, 2001, The Dayton Power and Light Company, (DP&L), a wholly owned subsidiary of DPL Inc., tendered for filing its filing describing separation of its transmission and distribution facilities.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Central Maine Power Company

[Docket No. ER01–1851–000]

Please take notice that on April 23, 2001, Central Maine Power Company (CMP) tendered for filing the First Amendment to the Interconnection Agreement by and between CMP and Northeast Empire Limited Partnership #1, designated as FERC Rate Schedule No. 139 and Supplements 1–3 and 5–11.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–1852–000]

Take notice that on April 23, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) tendered for filing Service Agreement No. 122 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply requests a waiver of notice requirements for an effective date of April 2, 2001 for Idaho Power.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: May 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–11198 Filed 5–3–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1839–000, et al.]

Dominion Nuclear Marketing II, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 27, 2001.

Take notice that the following filings have been made with the Commission:

1. Dominion Nuclear Marketing II, Inc.

[Docket No. ER01–1839–000]

Take notice that on April 24, 2001, Dominion Nuclear Marketing II, Inc. (DNM II) tendered for filing a service agreement providing for sales of power to Virginia Electric and Power Company (Dominion Virginia Power) under DNM II's market-based rate tariff, FERC Electric Tariff, Original Volume No. 1 (the Tariff). DNM II requests that the Commission act on this filing on an expedited basis and make the service agreement effective on the date of the Commission order accepting the service agreement.

Copies of the filing were served upon Dominion Virginia Power, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. NorthWestern Public Service Company

[Docket No. ER01–1651–001]

Take notice that on April 24, 2001, NorthWestern Public Service Company (NorthWestern) tendered for filing certain information intended to

supplement the filing of certain service agreements submitted March 29, 2001 in Docket No. ER01–1651–000. Copies of this filing were served on the transmission customers under the service agreements.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER01–817–002]

Take notice that on April 24, 2001, New England Power Company (NEP) tendered for filing non-substantive changes to the cover pages for the service agreements filed on March 27, 2001 in the above-referenced docket, in order to comply with the requirements of the Commission's Order No. 614.

NEP states that a copy of this filing has been served upon each of the parties that was served by NEP in Docket No. ER01–817–000.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER01–820–002]

Take notice that on April 24, 2001, New England Power Company (NEP) tendered for filing non-substantive changes to the cover pages for the service agreements filed on March 27, 2001 in the above-referenced docket, in order to comply with the requirements of the Commission's Order No. 614.

NEP states that a copy of this filing has been served upon each of the parties that was served by NEP in Docket No. ER01–820–000.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company

[Docket No. ER01–1853–000]

Take notice that on April 24, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Facility Interconnection and Operating Agreement (Interconnection Agreement) with Lumberton Power, LLC (Lumberton). The Interconnection Agreement sets forth the terms and conditions under which CP&L will provide interconnection service for a 35 MW electric generating facility owned by Lumberton.

CP&L requests waiver of the Commission's notice requirements in order for the Interconnection Agreement to become effective on April 24, 2001.

Copies of the filing were served upon Lumberton and the North Carolina Public Utilities Commission.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. FPL Energy Maine Holdings, LLC and Boralex Industries Inc.

[Docket No. ER01–1854–000]

Take notice that on April 24, 2001, FPL Energy Maine Holdings, LLC and Boralex Industries Inc., jointly tendered for filing a notice of succession, notice of change in status and amendments to an existing market-based rate tariff and code of conduct to reflect FPL Energy Maine Holdings, LLC's divestiture, and Boralex Industries Inc.'s acquisition, of AVEC Holdings, LLC, which owns a one hundred percent interest in Aroostook Valley Electric Company, which owns a 31 MW wood-burning power plant in Fort Fairfield, Maine.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Commonwealth Edison Company

[Docket No. ER01–1855–000]

Take notice that on April 24, 2001, Commonwealth Edison Company (ComEd) tendered for filing an executed Service Agreement for Network Integration Transmission Service (Service Agreement) between ComEd and the Illinois Municipal Electric Agency (IMEA) and an executed Network Operating Agreement (Operating Agreement) between ComEd and IMEA for service under ComEd's Open Access Transmission Tariff (OATT).

ComEd requests that the Commission substitute the Service Agreement and associated Operating Agreement for the unexecuted agreements with IMEA that were previously filed with and accepted by the Commission in Docket No. ER01–1356–000.

Copies of the filing were served on IMEA and the Illinois Commerce Commission.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER01–1856–000]

Take notice that on April 24, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company) tendered for filing First Revised Service Agreement No. 23 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services. First Revised Service Agreement No. 23 supersedes Service Agreement No. 23 and its Supplement No. 1 and will maintain the effective date of November 24, 1999, in accordance with the Commission's Order at Docket No. ER00–863–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Heard County Power, L.L.C.

[Docket No. ER01–1857–000]

Take notice that on April 24, 2001, Heard County Power, L.L.C. (Heard County Power) tendered for filing a service agreement (Power Purchase and Sales Agreement) covering transactions between Heard County Power and Dynegy Power Marketing, Inc. under Heard County Power's market-based rate schedule, to be in effect as of April 1, 2001.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Riverside Generating Company, L.L.C.

[Docket No. ER01–1858–000]

Take notice that on April 24, 2001, Riverside Generating Company, L.L.C. (Riverside) tendered for filing a service agreement (Power Purchase and Sales Agreement) covering transactions between Riverside and Dynegy Power Marketing, Inc. under Riverside's market-based rate schedule, to be in effect as of April 1, 2001.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER01–1859–000]

Take notice that on April 24, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Facility Interconnection and Operating Agreement (Interconnection Agreement) with Elizabethtown Power, LLC (Elizabethtown). The Interconnection Agreement sets forth the terms and conditions under which CP&L will provide interconnection service for a 35 MW electric generating facility owned by Elizabethtown. CP&L requests waiver of the Commission's notice requirements in order for the

Interconnection Agreement to become effective on April 24, 2001.

Copies of the filing were served upon Elizabethtown and the North Carolina Public Utilities Commission.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Cobb Electric Membership Corp.

[Docket No. ER01–1860–000]

Take notice that on April 24, 2001, Cobb Electric Membership Corp. (Cobb), a non-profit electric distribution cooperative located in Marietta, Georgia, tendered for filing a petition for authority to sell power at market-based rates, acceptance of its proposed rate schedule, granting of and certain waivers. Cobb requests an effective date for its proposed rate schedule that would be 60 days from the date of the filing of its petition or the date of the order accepting Cobb's rate schedule for filing, whichever is earlier.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER01–1861–000]

Take notice, that on April 24, 2001, Southern California Edison Company (SCE) tendered for filing the Amended and Restated SCE–CDWR Capacity Exchange Agreement (Agreement) between SCE and the State of California Department of Water Resources (CDWR), which provides for the terms to redefine the Exchange Ratio in Section 6.1.1 of the Agreement.

SCE requests the Agreement be made effective on the date on which FERC accepts the Agreement for filing; provided that, if FERC enters into a hearing to determine whether the Agreement is just and reasonable, the Agreement shall not become effective until the date when an order no longer subject to judicial review has been issued by FERC determining the Agreement to be just and reasonable without changes or modifications unacceptable to either Party.

Copies of this filing were served upon the Public Utilities Commission of the State of California and CDWR.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER01–1862–000]

Take notice that on April 24, 2001, Southern California Edison Company (SCE) tendered for filing the Mountain View II Project Interconnection Facilities Agreement (Agreement) between SCE and Mountain View Power Partners II LLC.

SCE requests that the Agreement become effective on April 25, 2001.

Copies of this filing were served upon the Public Utilities Commission of the State of California, Mountain View Power Partners II, LLC, and Mountain View Power Partners 1, LLC.

Comment date: May 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–11197 Filed 5–3–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6974–3]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NESHAP for Halogenated Solvent Cleaners/ Halogenated Air Pollution (HAP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Subpart T, National Emission Standards for hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning, OMB number 2060–0273, expires May 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Send comments, referencing ICR No. 1652.04 and OMB Control No. 2060–0273 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at *Farmer.sandy@epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1652.04. For technical questions about the ICR contact Acquanetta Delaney at (202) 564–7061.

SUPPLEMENTARY INFORMATION:

Title: NESHAP for Halogenated Solvent Cleaners/Halogenated Hazardous Air Pollutants (HAP), (OMB Control No. 2060–0273; EPA ICR No. 1652.04) expiring May 31, 2001. This is a request for extension of a currently approved collection.

Abstract: This ICR contains recordkeeping and reporting requirements that are mandatory for compliance with 40 CFR 63.460, *et seq.*, Subpart T, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning. This information notifies EPA when a source becomes subject to the regulations, informs the Agency if a source is in compliance when it begins operation, and informs the Agency if the source remained in compliance during any period of operation. In the Administrator's judgment, emissions of hazardous air pollutants (HAPs) from halogenated solvent cleaners may cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, NESHAP standards were promulgated for this source category, as required under section 112 of the Clean Air Act.

HAP emissions from halogenated solvent cleaners are the result of inadequate equipment design and work practices.

These standards rely on the proper design and operation of halogenated solvent cleaners such as working-mode covers, freeboard ratio of 1.0, and reduced room draft to reduce solvent emissions from halogenated solvent cleaners. Certain records and reports are necessary to enable EPA to identify sources subject to the standards and to ensure that the standards are being achieved. Owners/operators of halogenated solvent cleaners must provide EPA with an initial notification of existing or new solvent cleaning machines, initial statement of compliance, an annual control device monitoring report (owners/operators of batch vapor and in-line cleaning machines), an annual solvent emission report (owners/operators of batch vapor and in-line cleaning machines complying with the alternative standard), and exceedance of monitoring parameters or emissions. The records that the facilities maintain indicate to EPA whether they are operating and maintaining the halogenated solvent cleaners properly to control emissions. In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 17, 2000 (65 FR 50196); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators of solvent cleaning machines.

Estimated Number of Respondents: 3,821.

Frequency of Response: Quarterly, Semi-annually, Annually.

Estimated Total Annual Hour Burden: 45,207 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $4,091.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed about. Please refer to EPA ICR No. 1652.04 and OMB Control No. 2060–0273 in any correspondence.

Dated: April 24, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–11281 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6974–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Transition Program for Equipment Manufacturers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Transition Program for Equipment Manufacturers, OMB Control Number 2060–0369, expiration date: April 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1826.02 and OMB Control No. 2060–0369 to the following addresses: Sandy Farmer, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No.1826.02. For technical questions about the ICR contact: Nydia Yanira Reyes-Morales, tel.: (202) 564–9264; fax: (202) 565–2057; or e-mail: reyes-morales.nydia@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Transition Program for Equipment Manufacturers, EPA ICR Number 1826.02, OMB Control Number 2060–0369, expiration date: April 30, 2001. This is a request for extension of a currently approved collection.

Abstract: In August 1998, EPA established emission standards (Tier I standards) for engines under 37 kW, and tightened existing standards (Tier II standards) for engines above 37 kW. These regulations are likely to cause some engine design changes. During the rulemaking process, some equipment manufacturers expressed concerns about delays in notification from engine manufacturers about engine design changes. These design changes can create problems in fitting the engine to the equipment. Consequently, equipment manufacturers would be unable to sell the volume of equipment they planned for, since they would need to redesign their equipment before any products could be sold. In an effort to provide original equipment manufacturers (OEMs) with some flexibility in complying with the regulations, EPA created the Transition Program for Equipment Manufacturers (TPEM). Under the program, OEMs are allowed to use a number of noncompliant engines (uncertified engines rated below 37 kW or Tier I engines rated at or above 37 kW) in their equipment for up to seven years after the effective date of the standards. Participation in the program is voluntary. Participating OEMs and engine manufacturers who provide the noncompliant engines to the OEMs are required to keep records and submit

reports of their activities under the program.

The information is collected for compliance purposes by the Engine Programs Group, Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation. Confidentiality of proprietary information is granted in accordance with the Freedom of Information Act, EPA regulations at 40 CFR part 2, and class determinations issued by EPA's Office of General Counsel.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 29, 2000, (65 FR 83004). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 146 hours per equipment manufacturer or post-manufacture marinizer, and 72 hours per engine manufacturer. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Nonroad compression ignition engine and equipment manufacturers and post-manufacture marinizers.

Estimated Number of Respondents: 548.

Frequency of Response: Equipment manufacturers and post-manufacture marinizers: On occasion. Engine manufacturers: Annually.

Estimated Total Annual Hour Burden: 66,647 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $18,611.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No.1826.02 and OMB Control No. 2060–0369 in any correspondence.

Dated: April 25, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–11282 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6975–4]

Adequacy Status of Indiana and Kentucky Ozone Attainment Demonstration for Transportation Conformity Purposes for the Louisville Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of inadequacy.

SUMMARY: In this notice, EPA is notifying the public that it has found that the Louisville ozone attainment demonstration state implementation plans (SIP) submitted by Kentucky and Indiana on November 12, 1999, and November 15, 1999, respectively, do not contain motor vehicle emission budgets (MVEBs) that are adequate for transportation conformity purposes. The Louisville moderate one-hour ozone nonattainment area includes Clark and Floyd Counties, Indiana, and Jefferson County, Kentucky, and portions of Bullitt and Oldham Counties in Kentucky. EPA is finding the MVEBs inadequate because, due to a decision by the United States Court of Appeals, one of the significant assumptions of the demonstration has changed. The SIP submittal assumes that regional oxides of nitrogen (NO_X) reductions will be achieved in adjoining States by May 1, 2003. Due to the Court's decision, those reductions will not be assured to occur until May 31, 2004. Since the MVEBs in the SIP submittal could only be adequate if the reductions occur in 2003, they are now being found inadequate. Since the November 15, 1999, submittal does not contain adequate MVEBs, this attainment demonstration submittal cannot be used for future transportation conformity determinations.

FOR FURTHER INFORMATION CONTACT: Ryan Bahr, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4366, bahr.ryan@epa.gov.

Dr. Robert Goodwin, Environmental Scientist, Regulatory Planning Section, Air Planning Branch, Air, Pesticides, and Toxics Management Division, United States Environmental Protection Agency, Region 4, 61 Forsyth St., SW., Atlanta, GA 30303, (404) 562–9044, goodwin.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Today's notice is simply an announcement of a finding that EPA has already made. EPA Region 5 sent a letter to the Indiana Department of Environmental Management on April 20, 2001, stating that the submitted Louisville ozone attainment demonstration does not contain adequate MVEBs, and EPA Region 4 sent a similar letter to the Kentucky Division for Air Quality on April 20, 2001. This finding will also be announced on EPA's conformity website: http://www.epa.gov/otaq/traq. (Once at EPA's Transportation and Air Quality Center website, click on the ''Conformity'' button and look for ''Adequacy Review of SIP Submissions for Conformity.'')

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Transportation conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which EPA determines whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). Please note that an adequacy review is separate from EPA's completeness review, and it also should not be used to prejudge EPA's ultimate approval of the SIP. Even if EPA finds a motor vehicle emission budget adequate, the EPA may later disapprove the SIP.

EPA described the process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999, memorandum titled ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision'').

EPA followed this guidance in making this determination.

EPA is finding the MVEBs in the submitted Louisville attainment SIP inadequate because the associated SIP assumes that regional NO_X reductions under the NO_X SIP Call will be achieved in adjoining States by May 1, 2003. However, on August 30, 2000, the United States Court of Appeals for the D.C. Circuit issued an order extending the compliance date for the NO_X SIP Call from May 1, 2003, to May 31, 2004. The effect of this ruling is that the regional NO_X emissions reductions cannot be assumed to occur until 2004, and, therefore, 40 CFR 93.118(e)(4)(iv) cannot be satisfied by the submitted MVEBs.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 26, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Dated: April 20, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–11410 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6975–7]

National Drinking Water Advisory Council, Arsenic Cost Working Group, Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for nominations to the Arsenic Cost Working Group of the National Drinking Water Advisory Council.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing the formation of an Arsenic Cost Working Group of the National Drinking Water Advisory Council and soliciting nominations to this working group. The Advisory Council was established to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions, and policies related to the implementation of the Safe Drinking Water Act as amended.

Any interested person or organization may nominate qualified individuals for membership on the working group. Nominees should be identified by name, occupation, position, address and telephone number. To be considered, all nominations must include a current resume providing the nominee's background, experience and qualifications.

Following the January 22, 2001 **Federal Register** promulgation of the arsenic rule, a number of concerns were raised to EPA by States, public water systems, and other stakeholders regarding the adequacy of science and the basis for national cost estimates underlying the rule. Because of the importance of the arsenic rule and the national debate surrounding it related to science and costs, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and cost issues associated with this rule and seek further public input on each of these important issues.

Consistent with that commitment, EPA will work with the National Drinking Water Advisory Council (NDWAC) to convene a panel of nationally recognized technical experts to review the cost of compliance estimates associated with the final arsenic in drinking water rule.

The criteria for selecting working group members and for conducting the review are that working group members are recognized experts in their fields; that working group members are as impartial and objective as possible; that working group members represent an array of backgrounds and perspectives (within their disciplines); that the working group members are available to participate fully in the review, which will be conducted over a relatively short time frame (i.e., within approximately 3–4 months); and that the results of the review be made publicly available for comment. Working group members will be asked to attend a series of meetings (approximately three) over the course of 3–4 months, participate in the discussion of key issues and assumptions at these meetings, and review and finalize the products and outputs of the working group. The working group will make a recommendation to the full NDWAC. The NDWAC will, in turn, make a recommendation to EPA.

Nominations should be submitted to Janet Pawlukiewicz, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 1200 Pennsylvania Avenue, NW Washington, D.C. 20460, no later than May 14, 2001. The Agency will not formally acknowledge or respond to nominations.

FOR FURTHER INFORMATION CONTACT: Janet Pawlukiewicz at pawlukiewicz.janet@epa.gov or call (202) 260–9194.

Dated: May 2, 2001.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 01–11423 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6617–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly Receipt of Environmental Impact Statements

Filed April 23, 2001 Through April 27, 2001

Pursuant to 40 CFR 1506.9

EIS No. 010136, Draft EIS, AFS, CO, Forest Development Trail (FDT) 1135 (Arapaho Ridge Trail), Forest Development Road (FDR) 711.1 and FDR 711.1A Motorized or Non-Motorized Determination and Trailhead Parking Areas Creation at both ends of the Trail, Routt National Forest, Jackson County, CO, Comment Period Ends: June 18, 2001, Contact: Charles T. Oliver (970) 723–8204.

EIS No. 010137, Draft EIS, AFS, ID, Meadow Face Stewardship Pilot Project, Implementation, Nez Perce National Forest, Clearwater Ranger District, Idaho County, ID, Comment Period Ends: June 18, 2001, Contact: Darcy Pederson (208) 983–1950.

EIS No. 010138, Final EIS, FHW, VA, VA–37 Highway Transportation Improvement, Construction from VA–37/I–81/US–11 (south) to VA–37/US–11 (north), Funding and COE Section 404 Permit, City of Winchester, Frederick County, VA, Wait Period Ends: June 04, 2001, Contact: Roberto Fonseca-Martinez (804) 775–3320.

EIS No. 010139, Final EIS, FHW, TX, TX–130 Construction, I–35 of Georgetown to I–10 near Seguin, Funding, COE Section 404 Permit, Williamson, Travis, Caldwell, Guadalupe Counties, TX, Wait Period Ends: June 04, 2001, Contact: Patrick Bauer (512) 536–5950.

EIS No. 010140, Final EIS, FRA, FL, GA, MD, PA, CA, LA, NV, Programmatic—Maglev Deployment Program, Development and Construction of an Operating Public Transportation System using Magnetic Levitation, Grants Issuance, CA, FL, GA, LA, MD, NV and PA, Wait Period Ends: June

04, 2001, Contact: David Valenstein (202) 493–6383.

EIS No. 010141, Final EIS, FHW, OH, OH–7 (LAW–7) Relocation, OH–7 and OH–527 to a point Northeast of Rome Township and OH–607 from East Huntington Bridge to an Interchange with proposed OH–7 and OH–775, Funding, Lawrence County, OH, Wait Period Ends: June 04, 2001, Contact: Andy Garnes (614) 280–6856.

EIS No. 010142, Draft EIS, AFS, UT, Uinta National Forest Revised Land and Resource Management Plan, Implementation, Juab, Sanpete, Tooele, Utah and Wasatch Counties, UT, Comment Period Ends: July 26, 2001, Contact: Peter W. Karp (801) 377–5780.

EIS No. 010143, Final EIS, JUS, TX, Immigration and Naturalization Service (INS) Detention Facility Construction in the Houston Area, TX, Wait Period Ends: June 04, 2001, Contact: Eric Verwers (817) 978–0202.

EIS No. 010144, Final EIS, AFS, MT, Discovery Ski Area Expansion, Implementation, Special-Use-Permit and COE Section 404 Permit, Beaverhead-Deerlodge National Forest, Pintler Ranger District, Rumsey Mountain, Granite County, MT, Wait Period Ends: June 04, 2001, Contact: Bob Gilman (406) 859–3211.

EIS No. 010145, Draft EIS, AFS, NY, Finger Lake National Forest, Oil and Gas Leasing, Exploration and Development, Approval and Authorization, Hector Ranger District, Seneca and Schuyler Counties, NY, Due: July 03, 2001, Contact: Martha Twarkins (607) 546–4470.

EIS No. 010146, Draft EIS, TVA, AL, TN, Guntersville Reservoir Land Management Plan, Implementation, Proposal to Update a 1983 Land Allocation Plan, Jackson and Marshall Counties, AL and Marion County, TN, Comment Period Ends: June 18, 2001, Contact: Harold M. Draper (865) 632–6889.

EIS No. 010147, Final EIS, USN, HI, Fort Kamehameha Outfall Replacement for Wastewater Treatment Plant, Navy Public Works Center, Pearl Harbor, HI, Wait Period Ends: June 04, 2001, Contact: Gary Kasaoke (808) 474–5909.

EIS No. 010148, Draft EIS, AFS, UT, Solitude Mountain Resort Master Development Plan Update (MDP), Implementation, Special-Use-Permit, Wasatch-Cache National Forest, Salt Lake County, UT, Comment Periods Ends: June 18, 2001, Contact: Steve Scheid (801) 733–2689.

EIS No. 010149, Final Supplement, NRC, Generic—License Renewal of Nuclear Plants, Arkansas Nuclear One, Unit 1, COE Section 10 and 404 Permits, Pope County, AR (NUREG–1437) , Wait Period Ends: June 04, 2001, Contact: Thomas J. Kenyon (301) 415–1120.

EIS No. 010150, Final EIS, AFS, MT, Spar and Lake Subunits Forest Health Project, Improvements, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT, Wait Period Ends: June 04, 2001, Contact: Mike Donald (406) 295–4693.

Amended Notices

EIS No. 010023, Draft Supplement, NOA, AK, Groundfish Fishery Management Plan, Implementation, Bering Sea and Aleutian Islands, AK, Comment Period Ends: July 26, 2001, Contact: James W. Balsiger (907) 586–7221. Revision of FR Notice Published on 02/02/2001: CEQ Review Period Ending on 06/25/2001 has been extended to 07/25/2001.

EIS No. 010124, Final EIS, AFS, CA, Programmatic EIS—Ansel Adams, John Muir and Dinkey Lakes Wildernesses, Proposed New Management Direction, Amending the Land and Resource Management Plans for the Inyo and Sierra National Forests, Implementation, Inyo, Madera, Mono and Fresno Counties, CA, Wait Period Ends: May 21, 2001, Contact: Mary Beth Hennessy (760) 873–2448. Published FR 04–20–01 Correction to Title.

Dated: May 1, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–11296 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00717; FRL–6781–9]

FIFRA Scientific Advisory Panel; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: There will be a 3–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of issues being considered by the Agency pertaining to review of nontarget plant toxicity tests under North America Free Trade Association (NAFTA). The meeting is open to the public. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact Paul Lewis at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held from June 27 to June 29 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202. The telephone number for the Sheraton Crystal City Hotel is (703) 486–1111.

Requests to participate may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your request must identify docket control number OPP–00717 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Designated Federal Official, Office of Science Coordination and Policy (7202), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5369; fax number: (703) 605–0656; e-mail address: lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA and FQPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. A meeting agenda is now available; EPA's primary background documents should be available by late May. In addition, the Agency may provide additional background documents as the material becomes available. You may obtain electronic copies of these documents,

and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap. To access this document on the Home Page select **Federal Register** notice announcing this meeting. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this meeting under docket control number OPP–00717. The official record consists of the documents specifically referenced in this notice, any public comments received during an applicable comment period, and other material information, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. In addition, the Agency may provide additional background documents as the material becomes available. The public version of the official record, which includes printed, paper versions of any electronic comments that may be submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting through the mail, in person, or electronically. Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00717 in the subject line on the first page of your request. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advance written request to the person listed under **FOR FURTHER INFORMATION CONTACT**, interested persons may be permitted by the Chair of the FIFRA SAP to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard). There is no limit on the extent of written comments for consideration by the panel, but oral statements before the panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements at the meeting should contact the person listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies of their presentation and/or remarks to the panel. The Agency encourages that written statements be submitted before the meeting to provide panel members the time necessary to consider and review the comments.

1. *By mail*. You may submit a request to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your request electronically by e-mail to: ''opp-docket@epa.gov.'' Do not submit any information electronically that you consider to be CBI. Use WordPerfect 6.1/8.0 or ASCII file format and avoid the use of special characters and any form of encryption. Be sure to identify by docket control number OPP–00717. You may also file a request online at many Federal Depository Libraries.

II. Background

A. Purpose of the Meeting

Under the NAFTA, EPA and our Canadian counterpart, the Pest Management Regulatory Agency (PMRA), have conducted a joint review of aquatic and terrestrial plant tests and test methods. The existing data requirements and tests do not provide the information needed to adequately characterize risks to non-target plants. As an example, the number of plant species specified in the plant test guidelines need to be increased. In addition, tests are needed to assess plant reproduction and community impacts. The purpose of this session is to review non-target plant toxicity tests under NAFTA.

B. Panel Report

The Agency anticipates that the Panel's report of their recommendations will be available approximately 60 days after the meeting. The Panel's report will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed in Unit I. of this document.

List of Subjects

Environmental protection.

Dated: April 26, 2001.

Sherell A. Sterling,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 01–11284 Filed 5–3–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL 6974–8]

Science Advisory Board; Notification of Public Advisory Committee Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Joint Subcommittee on Industrial Ecology and Environmental Systems Management (the ''Subcommittee'') of the EPA Science Advisory Board's (SAB) Environmental Engineering Committee will conduct a public teleconference meeting on Tuesday, May 22, 2001 from 1:00–3:00 pm Eastern Time.

The conference call meeting will be coordinated through a conference call connection in room 6450C Ariel Rios Federal Building (North—6th Floor), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20004 (adjacent to the Federal Triangle Metro Station). The public is strongly encouraged to attend the meeting through a telephonic link, but may attend physically if arrangements are made in advance with the SAB staff. In both cases, arrangements should be made with the SAB staff by noon the Wednesday *before* the meeting. Staff may not be able to accommodate the presence of people who appear in person without advance notice. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Mary Winston (see below).

Purpose of the Meeting

The Subcommittee is preparing a commentary on industrial ecology as announced in 66 FR 10496, February 15, 2001. The Subcommittee was not able to complete its work during its previous conference call (April 18, 2001) and is

scheduling this additional call to discuss the third draft of its commentary.

Availability of the Written Materials in Advance of the Conference Call Meeting

Any written materials prepared by the Subcommittee in advance of the conference call will be posted on the SAB Website (*http://www.epa.gov/sab*). Any other materials, such as written public comment on the previous (second) draft commentary will be made available to the public on request by e-mail before the meeting. For e-mail copies, please contact Ms. Kathleen White Conway (see below). A limited number of paper copies will be available from Ms. Mary Winston (see below).

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the conference call meeting or wishing to submit brief oral comments must contact Ms. Kathleen White Conway, Designated Federal Officer, US EPA Science Advisory Board (1400A), Committee Operations Staff, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: (202) 564–4559; Fax: (202) 501–0582; or via e-mail at *conway.kathleen@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Ms. Conway no later than noon Eastern Time one week prior to the meeting.

Information on attending the teleconference via phone or in person can be obtained from Ms. Mary Winston, Management Assistant, US EPA Science Advisory Board (1400A), Committee Operations Staff, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, telephone: (202) 564–4538; Fax: (202) 501–0582; or via e-mail at: *winston.mary@epa.gov.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should both e-mail their comments to the DFO in MSWord and WordPerfect formats (suitable for IBM–PC/Windows 95/98) and provide 5 paper copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), because this is a conference call meeting, any comments to be mailed to the Subcommittee in advance of the meeting should be received in the SAB Staff Office by noon at least a week before the meeting. E-mailed comments will be accepted until the day before the meeting, although earlier submission is encouraged; these should be sent in both MSWord and WordPerfect format (suitable for IBM–PC/Windows 95/98).

General Information

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. Winston at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: April 20, 2001.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 01–11283 Filed 5–3–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

April 26, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 4, 2001. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: *OMB Control No.:* 3060–0774.

Title: Federal-State Joint Board on Universal Service, CC Docket No 96–45 (47 CFR Sections 36.611 and 36.612 and Part 54).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 5,554,651 respondents; 6,311,743 responses.

Estimated Time Per Response: .25 hours–100 hours.

Frequency of Response: On occasion, annual, and quarterly reporting requirements, third party disclosure requirement, recordkeeping requirement, and every 5 years reporting requirement.

Total Annual Burden: 1,853,707 hours.

Total Annual Cost: N/A.

Needs and Uses: Congress directed the Commission to implement a new set of universal service support mechanisms that are explicit and sufficient to advance the universal

service principles enumerated in 47 U.S.C. 254 and other such principles as the Commission believes are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the Act. Part 54 promulgates the rules and requirements to preserve and advance universal service.

All the requirements contained herein are necessary to implement the congressional mandate for universal service. These reporting requirements are necessary to calculate the contribution amount owed by each telecommunications carrier or to verify that particular carriers and other respondents are eligible to receive universal service support.

FEDERAL COMMUNICATIONS COMMISSION.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11241 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 01–1125]

Resignation of John R. Hoffman, Chairman of the North American Numbering Council (NANC) and Cancellation of the May 22–23, 2001 NANC Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On May 1, 2001, the Commission released a public notice announcing the resignation of John R. Hoffman, Chairman of the North American Numbering Council (NANC) and cancellation of the May 22–23, 2001 NANC meeting. The intended effect of this action is to make the public aware of the resignation of the NANC Chairman and cancellation of the May NANC meeting.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–2320 or *dblue@fcc.gov.* The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 01–11242 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2479]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

April 25, 2001.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by May 21, 2001. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Amendment of section 73.202(b), Table of Allotments, FM Broadcast Stations (Anniston and Ashland, Alabama, College Park, Covington, and Milledgeville, Georgia) (MM Docket No. 98–112, RM–9027, RM–9268, RM–9384).

Number of Petitions Filed: 2.

Subject: Reexamination of the Comparative Standards for Noncommercial Educational Applicants (MM Docket No. 95–31).

Number of Petitions Filed: 5.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11178 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 01–111]

DTV Construction Deadline Extended for Twenty-Three Television Stations

AGENCY: Federal Communications Commission.

ACTION: Extension to comply with deadline.

SUMMARY: In this document, the FCC extends the digital television (DTV) construction deadline for twenty-three television stations to either July 5, 2001, or October 5, 2001.

DATES: DTV construction must be completed by either July 5, 2001, or October 5, 2001, depending on the television station.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a summary of an Order released April 5, 2001. In the Order, the Commission permits television stations additional time to complete construction of their DTV facilities. Pursuant to § 73.624 of the rules, as published at 64 FR 4327 (January 28, 1999), the stations were required under the Commission rules to have completed construction of their DTV facilities by either May 1, 1999, or November 1, 1999. The Order grants extensions of the DTV construction deadline depending on the particular facts and circumstances for each station. This summary does not include the attachment that was included with the Order which sets forth the specific construction deadline for each of the twenty-three television stations.

The complete text of the Order, including attachment, is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20035, (202) 857–3800. It is also available on the Commission's web site at http://www.fcc.gov.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–11243 Filed 5–3–01; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, May 8, 2001, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single

vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

• Disposition of minutes of previous Board of Directors' meetings.

• Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

• Memorandum and resolution re: Amended, Revised and Consolidated Systems of Records.

Discussion Agenda

• Memorandum re: SAIF Assessment Rates for the Second Semiannual Assessment Period of 2001.

• Memorandum re: BIF Assessment Rates for the Second Semiannual Assessment Period of 2001.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 1, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–11427 Filed 5–2–01; 1:58 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) on behalf of the agencies a request for review of the information collection system described below. The agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

On December 28, 2000, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on the revision, without extension, of the currently approved information collection: the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002). The comment period expired February 26, 2001.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Interested parties are invited to submit written comments to the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies.

Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, submitted by electronic mail to regs.comments@federalreserve.gov, or delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A draft copy of the revised FFIEC 002 reporting form may be obtained at the FFIEC's web site (www.ffiec.gov). A copy of the revisions to the collection of information may also be requested from Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872–4984, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collection of information:

Report Title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

Form Number: FFIEC 002.

OMB Number: 7100–0032.

Frequency of Response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: 354.

Estimated Total Annual Responses: 1,416.

Estimated Time per Response: 22.50 burden hours.

Estimated Total Annual Burden: 31,860 burden hours.

General Description of Report

This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)). Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract

On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file detailed schedules of assets and liabilities in the form of a condition report and a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The Federal Reserve System collects and processes this report on behalf of all three agencies.

Current Actions

The agencies received one comment in response to the notice published in the **Federal Register** on December 28, 2000, (65 FR 82356) requesting public comment on the extension with revision of this information collection. The commenter supports the revisions to the FFIEC 002.

The agencies will implement a number of revisions to streamline the existing reporting requirements of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), consistent with eliminations and reductions in detail to the Reports of Condition and Income (Call Report) (FFIEC 031 and 041) filed by insured commercial banks and FDIC-supervised savings banks. The agencies are also endeavoring to improve the relevance of the FFIEC 002 by identifying new types of information necessary to monitor new activities and other recent developments that may expose institutions to new or different types of risk.

The revisions to the FFIEC 002 summarized below have been approved by the FFIEC. The agencies will implement these changes, except for new information on fiduciary and related services, as of the June 30, 2001, reporting date. New information on fiduciary and related services will be effective with the December 31, 2001, reporting date.

A. Specific Deletions, Reductions in Detail, and Redefinitions

Schedule RAL—Assets and Liabilities

1. For item 1.d, ''Federal funds sold and securities purchased under agreements to resell,'' combine items 1.d.(1), ''With U.S. branches and agencies of other foreign banks,'' and 1.d.(2), ''With other commercial banks in the U.S.,'' into a single line item.

2. For item 4.b, ''Federal funds purchased and securities sold under agreements to repurchase,'' combine items 4.b.(1), ''With U.S. branches and agencies of other foreign banks,'' and 4.b.(2), ''With other commercial banks in the U.S.,'' into a single line item.

3. Memorandum item 9, ''Mutual fund and annuity sales during the quarter,'' will be redefined as ''Assets under the reporting branch or agency's management in proprietary mutual funds and annuities.'' For branches and agencies with proprietary mutual funds and annuities, reporting the amount of assets under management should be significantly less burdensome than reporting the quarterly sales volume of both proprietary products and nonproprietary products. Branches and agencies without proprietary mutual funds and annuities will no longer need to report any information on their involvement with these products.

4. Memorandum item 12, ''Amount of assets netted against liabilities to nonrelated parties (excluding deposits in insured branches) on the balance sheet in accordance with generally accepted accounting principles,'' will be eliminated.

5. Statutory or Regulatory Requirement item S.3.a, ''FDIC asset maintenance requirement (for FDIC insured branches only): Average liabilities,'' currently collects average liabilities for the quarter ending on the report date. The agencies will redefine this item to collect average liabilities for the calendar quarter preceding the quarter ending on the report date. This redefinition will ensure that, as of a given report date, the asset maintenance requirement calculation for FDIC-insured branches in Section 347.211 of the FDIC's regulations can be accomplished by using only data filed on the current FFIEC 002 report. For example, using the FFIEC 002 report for the third quarter, eligible assets on the last day of the third quarter (reported in item S.3.b) will be divided by average liabilities for the second quarter (reported in item S.3.a).

Schedule A—Cash and Balances Due from Depository Institutions

Memorandum item 1, ''Noninterest-bearing balances due from commercial banks in the U.S. (including their IBFs),'' will be deleted.

Schedule C—Loans

The separate loan categories for ''Loans to depository institutions'' and ''Acceptances of other banks'' (items 2 and 5, respectively) will be combined.

Schedule E—Deposit Liabilities and Credit Balances

1. The reporting of demand deposits by category of depositor in column B of the body of the deposits schedule will be eliminated, with branches and agencies reporting instead only the total amount of their demand deposits in this column. Branches and agencies will continue to provide a category-by-category breakdown of their total transaction accounts in column A, which includes their demand deposits, but the current duplicate reporting of demand deposits by category in both columns A and B will end.

2. Item 6, ''Certified and official checks,'' will be combined with deposits of ''Individuals, partnerships, and corporations'' (item 1).

Schedule L—Derivatives and Off-Balance-Sheet Items

1. Item 6, ''Participations in acceptances acquired by the reporting (non-accepting) branch or agency,'' will be deleted.

2. Item 11.b for the gross notional amount of derivative contracts held for purposes other than trading that are not marked to market will be deleted. All derivative contracts, including those held for purposes other than trading, will be marked to market once a branch or agency adopts FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, which is effective for fiscal years beginning after June 15, 2000. Thus, item 11.b will no longer have any relevance in 2001.

3. For branches and agencies with $100 million or more in total assets: Items 12.c.(1) and (2) for the gross positive and gross negative fair values of derivatives held for purposes other than trading that are not marked to market will be deleted because of the effect of FASB Statement No. 133.

Schedule M—Due From/Due to Related Institutions in the U.S. and in Foreign Countries: Part V, Derivatives and Off-Balance Sheet Items With Related Depository Institutions

1. Item 6, ''Participations in acceptances acquired from related depository institutions by the reporting (non-accepting) branch or agency,'' will be deleted.

2. Item 11.b for the gross notional amount of derivative contracts held for purposes other than trading that are not marked to market will be deleted. All derivative contracts, including those held for purposes other than trading, will be marked to market once a branch or agency adopts FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, which is effective for fiscal years beginning after June 15, 2000. Thus, item 11.b will no longer have any relevance in 2001.

3. For branches and agencies with $100 million or more in total assets: Items 12.c.(1) and (2) for the gross positive and gross negative fair values of derivatives held for purposes other than trading that are not marked to market will be deleted because of the effect of FASB Statement No. 133.

Schedule N—Past Due, Nonaccrual, and Restructured Loans

Memorandum item 2.b, ''Replacement cost of [past due derivative] contracts with a positive replacement cost,'' will be deleted. Once branches and agencies adopt FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, all of their derivative contracts will be carried on the balance sheet at fair value. Since the replacement cost of a derivative contract is its fair value and its book value will also be its fair value, Memorandum items 2.a, ''Book value of amounts carried as assets,'' and 2.b will duplicate

each other. The caption for Memorandum item 2.a will be revised to read ''Fair value of amounts carried as assets.''

B. New Information

Securitization and Asset Sale Activities

The agencies will revise and expand the information collected in the FFIEC 002 report to facilitate more effective analysis of the impact of securitization and asset sale activities on credit exposures. In this regard, the agencies are proposing to introduce a separate new schedule (Schedule S) that will comprehensively capture information related to securitization and asset sale activities.

Under this proposal, branches and agencies involved in securitization and asset sale activities will report quarter-end data for seven loan and lease categories. These data will cover 1–4 family residential loans, home equity lines, credit card receivables, auto loans, other consumer loans, commercial and industrial loans, and all other loans and all leases. For each loan category, branches and agencies will report: (1) The outstanding principal balance of assets sold and securitized with servicing retained or with recourse or seller-provided credit enhancements, (2) the maximum amount of credit exposure arising from recourse or credit enhancements to securitization structures (separately for those sponsored by the reporting branch or agency and those sponsored by other institutions), (3) the past due amounts on the underlying securitized assets, (4) the amount of any commitments to provide liquidity to the securitization structures, (5) the outstanding principal balance of assets sold with servicing retained or with recourse or seller-provided credit enhancements that have not been securitized, and (6) the maximum amount of credit exposure arising from assets sold with recourse or seller-provided credit enhancements that have not been securitized.

A limited amount of information will also be collected on credit exposures to asset-backed commercial paper conduits. For the home equity line, credit card receivable, and the commercial and industrial loan categories, branches and agencies will also report the amount of any ownership (or seller's) interests in securitizations that are carried as securities and as loans and the past due amounts on the assets underlying the seller's interests carried as securities.

Although the new schedule will collect a considerable amount of information on these securitization activities, Schedule S will not affect most branches and agencies and the increase in reporting burden associated with the schedule's new information will be confined to a relatively small segment of the industry.

On a related matter, the agencies will collect information to facilitate more effective assessments of credit and other exposures related to branch and agency portfolios of asset-backed securities. Currently all asset-backed securities are reported in Schedule RAL, item 1.b, ''U.S. Government securities,'' or item 1.c, ''Other bonds, notes, debentures, and corporate stock (including state and local securities),'' depending on the issuer or guarantor. The agencies will add two new items on Schedule RAL to segregate branch and agency holdings of mortgage-backed securities and other asset-backed securities. Collection of this information will promote risk-focused supervision by enhancing the agencies' ability to assess credit exposures and asset concentrations.

Reporting of Trust Data

The agencies will change the manner in which branches and agencies report information on their trust activities. Branches and agencies that file the existing Annual Report of Trust Assets (FFIEC 001) will instead file a new Fiduciary and Related Services Schedule (Fiduciary Schedule) (Schedule T) as part of the FFIEC 002. Under this proposal, branches and agencies that have fiduciary or related activity will be required to report certain trust information in Schedule T annually as of December 31.[1] This information includes the number of accounts and the market value of trust assets for eight categories of fiduciary activities. These institutions will also report data on corporate trust activities, collective investment funds and common trust funds, and types of managed assets held in personal trust and agency accounts.

In creating Schedule T, modifications have been made to some of the existing items currently reported on the FFIEC 001 to improve their value and usefulness. However, the total number of separately reportable data items in the Fiduciary Schedule represents a decrease of more than 60 percent in the number of reportable items in the FFIEC 001. Thus, the agencies believe this proposal will not produce an increase in reporting burden for trust institutions.

The agencies are proposing to add the new Fiduciary Schedule to the FFIEC 002 instead of retaining separate trust reports in order to facilitate the timely collection and processing of the information. Institutions filing the current annual trust reports generally must submit their reports within 45 days after year-end. Electronically submitted annual trust reports, first allowed for year-end 1998 reporting, have a 75-day filing deadline. By moving the reporting of fiduciary information into the FFIEC 002, the submission deadline for the FFIEC 002 will apply to this reporting requirement. The length of time that trust institutions will have for completing the Fiduciary Schedule will be reduced from 45 days to 30 days for most institutions and from 75 days to 30 days for institutions that file electronically. The implementation of this Fiduciary Schedule and the modification of the submission deadline for this reporting requirement is consistent with the reporting treatment currently for insured commercial banks and FDIC-supervised savings banks.

C. Other Issue for Which Public Comment Is Requested

Eliminating Confidential Treatment for Certain Past Due and Nonaccrual Data

An important public policy issue for the agencies has been how to use market discipline to complement supervisory resources. Market discipline relies on market participants having information about the risks and financial condition of banking organizations. Disclosure that increases transparency should lead to more accurate market assessments of risk and value. This, in turn, should result in more effective market discipline on banking organizations.

Despite this emphasis on market discipline, the FFIEC and the agencies currently accord confidential treatment to the information branches and agencies report in Schedule N of the FFIEC 002 report on the amounts of their loans, leases, and other assets that are past due, in nonaccrual status, or restructured and in compliance with modified terms. In order to give the public, including branches and agencies, more complete information on the level of and trends in asset quality at individual institutions, the agencies are proposing to eliminate the confidential treatment currently provided for this information beginning with the amounts reported as of June 30, 2001.

Some financial institutions have held that information on loans, leases, and other assets that are past due 30 through 89 days is not a reliable indicator of future loan losses or of general asset

[1] This FFIEC 002 proposal does not address the trust reporting requirements that would be applicable to entities other than U.S. branches and agencies of foreign banks.

quality. They further note that market discipline will be reduced, rather than enhanced, by the release of information that is highly susceptible to misinterpretation to the extent that it could cause an unjustifiable loss of funding to the industry. However, banking supervisors have consistently found information on loans and leases past due 30 through 89 days to be helpful in identifying financial institutions with emerging asset quality problems. Therefore, the agencies believe that such information is a useful indicator of general asset quality and will not represent misleading information to the public.

Currently the agencies publicly disclose information reported by insured commercial banks, FDIC-supervised savings banks, and bank holding companies on loans and leases that are past due 90 days or more and still accruing, in nonaccrual status, or restructured and in compliance with modified terms. The agencies will publicly disclose reported information on loans and leases that are past due 30 through 89 days and still accruing for these institutions effective as of June 30, 2001. However, for periods prior to June 30, 2001, such past due data will not be publicly disclosed on an individual institution basis. Disclosing the information reported on Schedule N of the FFIEC 002 will also provide for a consistent reporting treatment with other U.S. banking institutions.

Request for Comment

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the Board's request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection requests. Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Board of Governors of the Federal Reserve System, April 30, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–11164 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 29, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Henry State Bancorp, Inc., Henry, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Henry State Bank, Henry, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Home Bancshares, Inc., Conway, Arkansas, to acquire 28.6 percent of the voting shares of Russellville Bancshares, Inc., Jonesboro, Arkansas, and thereby acquire First Arkansas Valley Bank, Russellville, Arkansas. In addition, Russellville Bancshares, Inc., also has applied to become a bank holding company by acquiring 86 percent of the First Arkansas Valley Bank, Russellville, Arkansas.

Board of Governors of the Federal Reserve System, April 30, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–11166 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 01-10469) published on pages 21157 and 21158 of the issue for Friday, April 27, 2001.

Under the Federal Reserve Bank of St. Louis heading, the entry for Harrodsburg First Financial Bancorp, Inc., Harrodsburg, Kentucky, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Harrodsburg First Financial Bancorp, Inc., to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Financial Bank, Glasgow, Kentucky.

In connection with this application, Applicant also has applied to retain ownership of its thrift subsidiary, First Financial Bank, Harrodsburg, Kentucky, and thereby engage in operating a savings association, pursuant to § 225.24(b)(4) of Regulation Y.

Comments on this application must be received by May 21, 2001.

Board of Governors of the Federal Reserve System, April 30, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–11167 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 29, 2001.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Commerce Financial Corporation ESOP, Topeka, Kansas; to acquire up to 35 percent of the voting shares of Commerce Financial Corporation, Topeka, Kansas, and thereby indirectly acquire Commerce Bank & Trust, Topeka, Kansas.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Washington First Financial Group, Inc., Seattle, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Washington First International Bank, Seattle, Washington.

Board of Governors of the Federal Reserve System, May 1, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–11299 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 2001.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Banco Espirito Santo, S.A.; Espirito Santo Financial (Portugal) Sociedade Gestora de Participacoes Sociais, S.A.; Bespar Sociedade Gestora de Participacoes Sociais, S.A.; all of Lisbon, Portugal; and E.S. Control Holding S.A.; Espirito Santo Financial Group S.A.; E.S. International Holding S.A.; all of Luxembourg-Kirchberg, Luxembourg; to retain an existing investment in and acquire additional shares of Clarity Incentive Systems, New York, New York, and thereby continue engaging in data processing and management consulting activities pursuant to §§ 225.28(b)(9) and (b)(14) of Regulation Y.

2. Banco Espirito Santo, S.A.; Espirito Santo Financial (Portugal) Sociedade Gestora de Participacoes Sociais, S.A.; Bespar Sociedade Gestora de Participacoes Sociais, S.A.; all of Lisbon, Portugal; and E.S. Control Holding S.A.; Espirito Santo Financial Group S.A.; E.S. International Holding S.A.; all of Luxembourg-Kirchberg, Luxembourg; to retain shares of FiNet.com, Inc., San Ramon, California, and thereby continue engaging in extending credit and activities related to extending credit pursuant to §§ 225.28(b)(1) and (b)(2) of Regulation Y.

Board of Governors of the Federal Reserve System, April 30, 2001.

Robert deV. Frierson

Associate Secretary of the Board.

[FR Doc. 01–11165 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, May 9, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personal actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 2, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–11422 Filed 5–3–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 9 a.m. (EDT), May 14, 2001.

PLACE: 4th Floor, Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. National Finance Center Record Keeping and New TSP System.
2. Congressional/Agency/Participant Liaison
3. Benefits and Investments
4. Participant Communications
5. Approval of the minutes of the April 9, 2001, Board member meeting
6. Thrift Savings Plan Activity Report by the Executive Director
7. Approval of the Update of the FY 2001 Budget and FY 2002 Estimates
8. Investment Policy Review
9. Status of Audit Recommendations

FOR FURTHER INFORMATION CONTACT: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Elizabeth S. Woodruff,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 01–11404 Filed 5–2–01; 12:58 pm]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC or ''Commission'').

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC is seeking public comments on its proposal to extend through August 31, 2004 the current PRA clearance for information collection requirements contained in its regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986 (''Smokeless Tobacco Act'' or the ''Act''). That clearance expires on August 31, 2001.

DATES: Comments must be submitted on or before July 3, 2001.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Smokeless Tobacco Regulations: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Rosemary Rosso, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326–2174.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the Smokeless Tobacco Act regulations (OMB Control Number 3084–0082).[1]

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency; including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Description of the collection of information and proposed use: The Smokeless Tobacco Act requires that manufacturers, packagers, and importers of smokeless tobacco products include one of three specified health warnings on packages and in advertisements. The Act also requires that each manufacturer, packager, and importer of smokeless tobacco products submit a plan to the Commission specifying the method to rotate, display, and distribute the warning statement required to appear in advertising and labeling. The Commission is required by the Act to determine that these plans provide for rotation, display, and distribution of warnings in compliance with the Act and implementing regulations. With one exception, all of the affected companies have previously filed plans. However, the plan submission requirement continues to apply to a company that amends its plan, or to a new company that enters the market.

Burden Statement

Estimated annual hours burden: 1,000 hours (rounded). The FTC is retaining its existing burden estimate of 1,000 hours. This amount is based on the burden previously estimated for fourteen smokeless tobacco companies to prepare and submit amended compliance plans, and to permit at least three new companies to submit initial compliance plans. Though staff's calculations underlying the estimate totaled 560 hours, staff then conservatively rounded up its estimate to 1,000 hours. Staff firmly believes that this prior rounded estimate will fully incorporate any incremental effects of an additional three companies submitting plans.

Virtually all affected companies long ago filed their plans with the Commission. Additional annual reporting burdens would occur only if those companies opt to change the way they display the warnings required by the Smokeless Tobacco Act. Although it is not possible to predict whether any of these companies will seek to amend an existing approved plan (and possibly none will), staff conservatively assumes that each company will file one amendment per year. This estimate is conservative because, over the past three years, the Commission has reviewed only two minor amendments to plans and the Commission has not changed the relevant regulations.[2] The

[1] The Commission seeks comment on the costs and burdens imposed by the existing smokeless tobacco regulations. In March 2000, the Commission commenced a regulatory review of its smokeless tobacco regulations to determine whether there is a continuing need for the regulations and, if so, what revisions, if any, should be made. 65 FR 11944 (Mar. 7, 2000). In addition to comments sought on the costs and benefits of the existing regulations, the Commission requested comment on whether the regulations are effective in meeting the Smokeless Tobacco Act's format and display requirements and whether the current ''safe harbor'' approach is sufficiently enforceable. If the Commission determines that the regulations should be amended, it will commence a rulemaking proceeding. Should resulting amendments materially affect PRA burden, the Commission will notify OMB and seek amended clearance.

[2] In March 2000, the Commission commenced a regulatory review of its smokeless tobacco regulations to determine whether there is a continuing need for the regulations and, if so, what revisions, if any, should be made. In addition to questions concerning the costs and benefits of the existing regulations, the Commission requested comment on whether the regulations are effective in meeting the Smokeless Tobacco Act's format and display requirements and whether the current ''safe harbor'' approach is sufficiently enforceable. If the

Continued

estimated time to prepare the two amended plans is less than 20 hours each. The only major amendment of an approved plan, occurring more than three years ago, required only 40 hours to prepare, which is considerably less time than individual companies spent preparing their initial plans. Commission staff believes it reasonable to assume that each company would consume no more than 40 hours to prepare an amended plan.

Commission staff also estimates that one smokeless tobacco manufacturer will file an initial plan, for an additional burden of approximately 150 hours.[3] When the regulations were first proposed in 1986, representatives of the Smokeless Tobacco Council, Inc. indicated that the six companies it represented would require approximately 700 to 800 hours in total (133 hours apiece) to complete the initial required plans. Staff assumed that other companies, whose plans were prepared by various other representatives, would require more time, on average, to complete their plans. Staff estimated that this latter group of companies would each require approximately 150 hours, and it believes this estimate remains reasonable.

In addition to the estimates above, the Commission anticipates that in the next three years, up to two small importers may submit initial plans, for an additional burden of approximately 80 hours. Over the past three years, two small importers submitted initial plans. Because these plans involved only a limited number of brands and no advertising, the estimated time to prepare the plans was very modest. Staff estimates that the companies spent no more than 40 hours each to prepare the plans.

Based on these assumptions, the total annual hours burden should not exceed 1,000 hours. [(14 companies × 40 hrs. each) + (one company × 150 hours) + (2 companies × 40 hrs.) = 780 total hours, rounded to one thousand hours.]

Estimated annual labor cost burden: $103,000

The total annualized labor cost to these companies should not exceed $103,000. This is based on the assumption that management or attorneys will account for 80% of the estimated 1,000 hours required to rewrite or amend the plans, at an hourly rate of $125, and that clerical support will account for the remaining time (20%) at an hourly rate of $15. (Management and attorneys' time (1,000 hrs. × 0.8 × $15 = $3,000).

Estimated annual non-labor cost burden: $0 or minimal.

The Commission knows of no recordkeeping cost burden associated with the plans for the display of the warnings. The companies may keep copies of their plans to ensure that labeling and advertising complies with the requirements of the Smokeless Tobacco Act. Such recordkeeping would require the use of office supplies, e.g., file folders and paper, all of which the companies should have on hand in the ordinary course of their business.

While companies submitting initial plans may incur one-time capital expenditures for equipment used to print package labels in order to include the statutory health warnings or to prepare acetates for advertising, the warnings themselves disclose information completely supplied by the federal government. As such, the disclosure does not constitute a ''collection of information'' as it is defined in the regulations implementing the PRA, nor by extension, do the financial resources expended in relation to it constitute paperwork ''burden.'' *See* 5 CFR 1320.3(c)(2). Moreover, any expenditures relating to the statutory health warning requirements would likely be minimal in any event. As noted above, virtually all affected firms have already submitted approved plans. For these companies, there are no capital expenditures. After the Commission approves a plan for the display of the warnings required by the Smokeless Tobacco Act, the companies are required to make additional submissions to the Commission only if there is a change in the way that they choose to display the warnings. Once the companies have prepared plates to print the required warnings on their labels, there are no additional set-up costs associated with the display of the warnings in labeling. Similarly, once the companies have prepared acetates of the required warnings for advertising and promotional materials, there are no additional set-up costs associated with printing the warnings in those materials.

Finally, capital expenditures for small importers are likely to be de minimis. Both firms that submitted plans over the past three years used stickers to place the warnings on their packages. The stickered warnings could be generated with office equipments and supplies such as computers and labels, all of which the companies should have on hand in the ordinary course of their business. Because neither firm engaged in any advertising, no costs associated with advertising were incurred.

Christian S. White,

Acting General Counsel.

[FR Doc. 01–11237 Filed 5–3–01; 8:45 am]

BILLING CODE 6750–01–M

Commission determines that the regulations should be amended, it will commence a rulemaking proceeding. Should any resulting amendments materially affect burden under the PRA, the Commission will notify OMB and seek amended clearance.

[3] This company has been selling smokeless tobacco products for several years, but failed to submit a plan as required by the Act and the regulations. The company currently is in the process of obtaining approval of a complying rotational plan. Thus, most, if not all, of the 150 estimated burden hours likely will have been expended before August 31, 2001. However, erring on the conservative side, staff has included these hours in its burden estimate.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC is seeking public comments on its proposal to extend through August 31, 2004 the current PRA clearance for information collection requirements contained in its Telemarketing Sales Rule, 16 CFR part 435 (''TSR'' or ''Rule''). That clearance expires on August 31, 2001.

DATES: Comments must be submitted on or before June 4, 2001.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. All comments should be captioned ''Telemarketing Sales Rule: Paperwork comment.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Karen Leonard, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Room H–238, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3597.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public

submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the TSR (OMB Control Number 3084–0097).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The TSR implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108 (''Act''). The Act seeks to prevent deceptive or abusive telemarketing practices. It mandates certain disclosures by telemarketers, and directs the Commission to consider recordkeeping requirements in its promulgation of a telemarketing rule to address such practices. As required by the Act, the TSR mandates certain disclosures regarding telephone sales and requires telemarketers to retain certain records regarding advertising, sales, and employees. The disclosures provide consumers with information necessary to make informed purchasing decisions. The records are available for inspection by the Commission and other law enforcement personnel to determine compliance with the Rule. Records may also yield information helpful to measuring and redressing consumer injury stemming from Rule violations.

Burden Statement

Estimated Annual Hours Burden: 2,301,000 Hours

The estimated recordkeeping burden is 50,000 hours for all industry members affected by the Rule. The estimated burden related to the disclosures that the Rule requires is 2,251,000 hours (rounded to nearest thousand) for all affected industry members, for a total of 2,301,000 burden hours.

Recordkeeping: At the time the Commission issued the Rule, it estimated that during the initial and subsequent years after the Rule took effect, 100 new telemarketing entities per year would find it necessary to revise their practices to conform with it, each requiring approximately 100 hours to develop a compliant recordkeeping system, for a cumulative yearly total of 10,000 burden hours. The Commission received no comments relating to this estimate either when it issued the Rule nor during the ensuing rule review and PRA clearance processes, and staff believes the estimate remains representative. There is no reason to believe that the number of affected new entrants each year has increased.

Of the estimated 39,900 industry members who have already assembled and retained the required records in their recordkeeping systems, staff estimates that each member requires only one hour per year to file and store records required by the Rule. For purposes of estimation, staff has rounded by the cumulative sub-total of 39,900 hours to 40,000 hours. Thus, total estimated annual recordkeeping burden for new and existing entities is 50,000 hours.

Disclosure: Staff believes that a substantial majority of telemarketers now make in the ordinary course of business the disclosures the Rule requires because to do so constitutes good business practice.[1] To the extent this is so, the time and financial resources needed to comply with disclosure requirements do not constitute ''burden.'' 16 CFR 1320.3(b)(2). Moreover, many state laws require the same or similar disclosures the Rule mandates. Thus, the disclosure hours burden attributable solely to the Rule is far less than the total number of hours associated with the disclosures overall. As before when last seeking OMB clearance and related public comment, staff estimates that the disclosures the Rule requires would be made in at least 75 percent of telemarketing presentations even absent the Rule. *See* 63 FR 40713, July 30, 1998. Staff received no comments at that time refuting this estimate. Accordingly, staff determined that the hours burden estimate for the Rule's disclosure requirements is 25 percent of the total hours associated with disclosures of the type the TSR requires. Staff estimates the portion attributable to the Rule to be 2,251,000, rounded to the nearest thousand. The components of this total are detailed in the immediately following paragraphs that address hours burden.

In connection with the Rule's issuance and in the ensuing rule review and PRA clearance processes, staff estimated that the 39,900 (rounded to 40,000) industry members make approximately 9 billion calls per year, or 225,000 calls per year per company. The TSR provides that if an industry member chooses to solicit inbound calls from consumers by advertising media other than direct mail or by using direct mail solicitations that make certain required disclosures (providing for an inbound telephone call as a possible response) that member is exempted from complying with the Rule's oral disclosures. Staff estimates that at least 9,000 firms will choose to adopt marketing methods that exempt them from complying with the Rule's oral disclosure requirements. This assumption is based on industry data indicating that slightly over 20% of industry members engage in direct mail solicitations involving telemarketing[2] (and staff's corollary assumption that these solicitations will include written disclosures the Rule alternatively requires).

When the Commission issued the TSR, staff estimated that it takes 7 seconds for telemarketers to disclose the required outbound call information orally. Staff also estimated that a least 60 percent of calls result in ''hang-ups'' before the seller or telemarketer can make all the required disclosures and the ''hang-up'' calls consume only 2 seconds. Accordingly, staff estimates that the total time associated with these initial disclosure requirements is approximately 250 hours per firm (90,000 non-hang up calls (.40 × 225,000) × 7 seconds per call) + (135,000 hang-up calls (.60 × 225,000) × 2 seconds per call). Thus, the total time expenditure for the 31,000 firms choosing marketing methods that require these oral disclosures is 7.75 million hours. When it initially published this estimate, the Commission received no comments on it nor had the Commission received related comments in the ensuing Rule review and PRA clearance processes. Staff believes the estimate remains reasonable. Based on the assumption

[1] Although telemarketing fraud causes significant harm to consumers—Congress has estimated that misrepresentations or material omissions in telemarketing sales presentations result in $3 billion to $40 billion annually in consumer injury—the harm caused by telemarketing fraud remains a small fraction of the $400 billion in total annual sales through telemarketing.

[2] Direct Marketing Association Statistical Fact Book 2000 (22d ed. 2000) (based on data for 1997–1998, the two most recent years included within this source information).

that no more than 25 percent of this time constitutes ''burden'' imposed solely by the Rule (as opposed to the normal business practices of most affected entities apart from the Rule's requirements), the burden subtotal attributable to these basic disclosures is 1,937,500 hours.

The TSR also requires further disclosures before the customer pays for goods or services. Specifically, telemarketers must disclose the total cost of the offered goods or services; all material restrictions; and all material terms and conditions of the seller's refund, cancellation, exchange, or repurchase policies (if a representation about such a policy is a part of the sales offer). If a prize promotion is involved in connection with the sale of goods or services, the telemarketer must also disclose information about the non-purchase entry method for the prize promotion. Staff estimates that these disclosures consume approximately 10 seconds. However, the Rule requires these disclosures only when a call results in a sale. Staff estimates that sales occur in approximately 6 percent to telemarketing calls. Accordingly, the estimated amount of time for these disclosures is 37.5 hours per firm (13,500 calls resulting in a sale (.06 × 225,000 × 10 seconds) or 1.163 million hours for the 31,000 firms choosing marketing methods that require oral disclosures. When it initially published this estimate, the Commission received no comments on this estimate nor had it received related comments in the ensuing Rule review and PRA clearance processes. Again, staff believes the estimate remains reasonable. Based on the assumption that no more than 25 percent of this time constitutes ''burden'' imposed solely by the Rule, the burden subtotal attributable to these additional disclosures is 290,750 hours.

As noted above, staff estimates that approximately 9,000 telemarketing firms will choose the written disclosure option. Firms electing this option are likely to be those using written advertising materials. Thus, the burden of adding the required disclosures should be minimal. Staff previously estimated that a typical firm will spend approximately 10 hours per year engaged in activities ensuring compliance with this provision of the Rule, for an estimated total burden of 90,000 hours for all 9,000 firms using written disclosure. As was the case regarding the other estimates stated above, when the Commission initially published this estimate, it received no comments on it nor had the Commission received any such comments in the ensuring Rule review and PRA clearance processes. Staff believes this estimate also remains reasonable. Based on the assumption that no more than 25 percent of this time constitutes ''burden'' imposed solely by the Rule, residual burden attributable to these written disclosures is 22,500 hours.

Estimated Annual Labor Cost Burden: $34,361,000

The estimated labor cost for recordkeeping is $600,000. Assuming a cumulative burden of 10,000 hours/year to set up compliant recordkeeping systems, and applying to that a skilled labor rate of $20/hour, start-up costs would approximate $200,000 yearly for all new telemarketing entities. Staff also estimates that existing industry members require 40,000 hours, cumulatively, to maintain compliance with the TSR's recordkeeping provisions. Applying a clerical cost rate of $10/hour, cumulative recordkeeping maintenance would cost approximately $400,000 annually. The estimated labor cost for disclosure is $33,765,000, based on an estimate of 2,251,000 disclosure burden hours and a wage rate of $15/hour. Thus total labor cost, rounded to the nearest thousand, is $34,361,000.

Estimated Annual Non-Labor Cost Burden: $10,022,000

Total capital and start-up cost: Staff estimates that the capital and start-up costs associated with the TSR's information collection requirements are de minimis. The Rule's recordkeeping requirements mandate that companies maintain records but not in any particular form. While those requirements necessitate that affected entities have a means of storage, industry members should have that already regardless of the Rule. Even if an entity finds it necessary to purchase a storage device, the cost is likely to be minimal, especially when annualized over the item's useful life. The Rule's disclosure requirements require no capital expenditures.

Other non-labor cost: Affecters entities need some storage media such as file folders, computer diskettes, or paper in order to comply with the Rule's recordkeeping requirements. Although staff believes that most affected entities would maintain the required records in the ordinary course of business, staff estimated that the approximately 40,000 industry members affected by the Rule spend a annual amount of $50 each on office supplies as a result of the Rule's recordkeeping requirements, for a total recordkeeping cost burden of $2,000,000.

To comply with the Rule's disclosure requirements, telemarketing firms likely incur additional cost for telephone service, assuming that the firms spend more time on the telephone with customers due to the required disclosures. As further detailed above, staff believes that the burden relating to the required oral disclosures amounts to 8,913.000 hours (7.75 million initial disclosure hours + 1.163 million hours regarding sales). Assuming all calls to customers are long distance, at a commercial calling rate of 6 cents per minute ($3.60 per hour), affected entities as a whole may incur up to $32,086,800 in telecommunications cost as a result of the Rule's disclosure requirements. However, as also noted above, staff estimates that only 25 percent of such disclosures constitute ''burden.'' Accordingly, the oral disclosure cost burden, adjusted for this apportionment, is $8,022,000, rounded to the nearest thousand.

Staff believes that the estimated 9,000 entities choosing to comply with the Rule through written disclosures incur no additional capital or operating expenses as a result of the Rule's requirements because they are likely to provide written information to prospective customers in the ordinary course of business. Adding the required disclosures to that written information likely requires no supplemental expenditures.

Thus, total estimated non-labor cost burden associated with the Rule is $10,022,000 ($2,000,000 for recordkeeping + $8,022,000 for oral disclosures).

Christian S. White,

Acting General Counsel.

[FR Doc. 01–11238 Filed 5–2–01; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

[Document No. JFMIP–SR–01–01]

Joint Financial Management Improvement Program (JFMIP)—Federal Financial Management System Requirements (FFMSR)

AGENCY: Joint Financial Management Improvement Program (JFMIP)

ACTION: Notice of document availability.

SUMMARY: The JFMIP is seeking public comment on an exposure draft entitled ''Benefit System Requirements,'' dated May 2001. The draft is the first Federal Financial Management System Requirements (FFMSR) document to address standard requirements for Federal agency benefit systems. The document is intended to assist agencies when developing, improving or

evaluating benefit systems. It provides the baseline functionality that benefit systems must have to support agency missions and comply with laws and regulations. When issued in final, the JFMIP Benefit System Requirements document will augment the existing body of FFMSR that define financial system functional requirements which are used in evaluating compliance with the Federal Financial Management Improvement Act (FFMIA) of 1996.

DATES: Comments are due by July 1, 2001.

ADDRESSES: Copies of the exposure draft have been mailed to agency senior financial officials, together with a cover memo listing the questions on which JFMIP is soliciting feedback. The exposure draft and cover memo are available on the JFMIP website: WWW.JFMIP.GOV

Comments should be addressed to JFMIP, 1990 K Street, NW., Suite 430, Washington, DC 20006.

FOR FURTHER INFORMATION: Steven Fisher, (202) 219–0530 or via Internet: fishers@jfmip.gov.

SUPPLEMENTARY INFORMATION: The FFMIA of 1996 mandated that agencies implement and maintain systems that comply substantially with FFMSR, applicable Federal accounting standards, and the U.S. Government Standard General Ledger at the transaction level. The FFMIA statute codified the JFMIP financial system requirements documents as a key benchmark that agency systems must meet to substantially comply with systems requirements provisions under FFMIA. To support the provisions outlined in the FFMIA, the JFMIP is updating obsolete requirements documents and publishing additional requirements documents.

Comments received will be reviewed and the exposure draft will be revised as necessary. Publication of the final requirements will be mailed to agency senior financial officials and will be available on the JFMIP website.

Dated: May 1, 2001.

Steven A. Fisher,

Senior Management Analyst, Joint Financial Management Improvement Program.

[FR Doc. 01–11323 Filed 5–3–01; 8:45 am]

BILLING CODE 1610–02–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary, Assistant Secretary for Planning and Evaluation; Notice Inviting Applications for New Award for Fiscal Year 2001

AGENCY: Office of the Assistant Secretary for Planning and Evaluation (ASPE), HHS.

ACTION: Announcement of the availability of funds and request for applications from states and large counties for cooperative agreements to study the characteristics of persons receiving cash assistance from the Temporary Assistance to Needy Families (TANF) program.

SUMMARY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) announces the availability of funds and invites applications for cooperative agreements to conduct research into the characteristics of individuals who receive cash assistance from the Temporary Assistance to Needy Families (TANF) program. Approximately four to five states or large counties will receive funding under a cooperative agreement that will enable them to monitor and conduct research into the characteristics of current TANF recipients and their families. Topics relevant to these studies fall into several interrelated categories: (1) Demographic characteristics of the caseload; (2) employment and economic outcomes of the caseload; and (3) barriers to employment. ASPE is particularly interested in assisting state and local efforts to study their TANF recipients' potential barriers and opportunities for obtaining employment and achieving self-sufficiency using survey data analysis enriched with administrative data. Given the nature of the research involved, competition is open only to state agencies that administer TANF programs and to counties with total populations greater than 500,000 that administer TANF programs.

Cooperative Agreements are assistance mechanisms and subject to the same administrative requirements as grants; however, they are different from either a grant or a contract. Cooperative Agreements allow more involvement and collaboration by the government in the affairs of the project compared to a grant, but provide less direction of project activities than a contract. The Terms of Award are in addition to not in lieu of otherwise applicable guidelines and procedures.

CLOSING DATE: The deadline for submission of applications under this announcement is June 18, 2001.

ADDRESSES: Application instructions and forms should be requested from and submitted to: Adrienne Little, Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Room 405F, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201. Telephone: (202) 690–8794. Requests for forms and administrative questions will be accepted and responded to up to ten (10) working days prior to the closing date.

Copies of this program announcement and many of the required forms may also be obtained electronically at the ASPE World Wide Web Page: *http://aspe.hhs.gov.* You may fax your request to the attention of the Grants Officer at (202) 690–6518. Applications may not be faxed or submitted electronically.

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ASPE World Wide Web Page containing electronic copies of this program announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to the Grants Officer at the address or phone number listed above. Programmatic/technical questions should be directed to Susan Hauan, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Room 404E, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201. Telephone: (202) 690–8698. Questions may be faxed to (202) 690–6562 or e-mailed to shauan@osaspe.dhhs.gov.

Part I. Supplemental Information

Legislative Authority

This cooperative agreement is authorized by section 1110 of the Social Security Act (42 U.S.C. 1310) and awards will be made from funds appropriated under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, as enacted by section 1000(a)(4) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554).

Eligible Applicants

Given the nature of the research involved, competition is open only to state agencies that administer TANF programs and to counties with total populations greater than 500,000 that administer TANF programs. Consortia of states and counties are also encouraged to apply, as long as their combined total populations exceed 500,000 and a single agency is identified as the lead to handle grant funds and sub-granting. Public or private nonprofit organizations, including universities and other institutions of higher education, may collaborate with states in submitting an application, but the principal grantee will be a state or county. Private for-profit organizations may also apply jointly with states or counties, with the recognition that grant funds may not be paid as profit to any recipient of a grant or subgrant.

The Code of Federal Regulations, Title 45, Part 92 defines a state as: ''Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.''

Available Funds

Approximately $1,000,000 is available from ASPE, in funds appropriated for fiscal year 2001. ASPE anticipates providing approximately four to five awards of between $200,000 and $250,000 each. If additional funding becomes available in fiscal year 2002, additional projects may be funded or some projects may receive second-year non-competing continuation funding. However, applications for funding under this announcement should describe projects that can be completely carried out with fiscal year 2001 funding at the above anticipated level.

Use of Funds

No federal funds received as a result of this announcement can be used to purchase computer equipment and no funds may be paid to grantees or sub-grantees as profit, i.e., any amount in excess of allowable direct and indirect costs of the recipient (45 CFR 74.81). Our intent is to sponsor state and local survey data collection efforts and administrative data linking and analysis, and grant funds awarded may not be used to pay for assistance programs or the provision of services.

Grantees must provide a minimum of 5 percent of the total approved cost of the project. The total approved cost of the project is the sum of the federal share and the non-federal share. Thus, a project with a total budget of $200,000 must include a match of at least $10,000 and would imply a request for federal funds of no more than $190,000. The non-federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions.

If a study has approved funding from other funding sources, the amount, duration, purpose, and source of the funds should be indicated in materials submitted under this announcement. If completion of the proposed study is contingent upon approval of funding from other sources, the relationship between the funds being sought elsewhere and from ASPE should be discussed in the budget information submitted as part of the application. In both cases, the contribution that ASPE funds will make to the project should be clearly presented.

Background

Welfare caseloads have declined precipitously in recent years. Since January 1993, the number of people receiving welfare benefits has fallen from 14.1 million to 5.8 million recipients, a reduction of nearly 60 percent. This decline is attributable to several factors, including the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193) and the strong economy. In response to the demand from the public and policymakers, many studies to date address the circumstances of individuals who have left welfare or who applied and were formally or informally diverted from welfare. Fewer studies focus on the status of current TANF recipients. Questions have been raised, however, about who is staying on welfare. How many of the individuals on welfare are ''hard-to-employ'' or more disadvantaged? How many are at high risk of reaching time limits? What services do recipients need to make the transition to work and success in the labor market? This information is of great interest to policymakers and administrators trying to adapt work programs to serve those remaining on the caseload better. Long-term recipients and those close to reaching time limits are of particular interest.

ASPE is interested in funding studies under this announcement that address the characteristics and circumstances of individuals and families receiving cash assistance from the TANF program at a given point in time. TANF administrative records are an important source of data on the caseload. These administrative records provide valuable data on the characteristics of the TANF caseload; however, the picture they provide is incomplete. These state and county studies on the TANF caseload will help enrich our understanding of the characteristics of TANF recipients.

The studies funded under this announcement continue ASPE's partnership with states and counties in building data infrastructure and, as such, build closely on many previous ASPE-sponsored research projects to study the outcomes of welfare reform. These include projects involving administrative data linking and several earlier rounds of grants to states and large counties.

For the past three years, the Department has received policy research funds targeted by Congressional appropriators to support studies of the outcomes of welfare reform. Additional funds were also included in the fiscal year 2001 appropriation. Projects funded in fiscal years 1998, 1999, and 2000 include studies that measure outcomes for a broad population of low-income families and measure family hardship and well-being, including the utilization of other support programs. A large portion of the welfare outcome funds has been spent on competitive grants to states and large counties to study families leaving welfare, as well as those who have been diverted (formally and informally) from welfare receipt. Based on both linked administrative data and survey data, these projects provide valuable data on welfare outcomes from a variety of perspectives. Additional information on ASPE-funded welfare outcomes studies can be found on the ASPE web site at: http://aspe.os.dhhs.gov/hsp/leavers99/index.htm.

As findings from these studies continue to emerge, forming a valuable knowledge base around welfare outcomes for families who leave welfare, it is appropriate to expand our understanding of the characteristics of current TANF recipients. Current recipients include both those who entered the program recently as well as those who have received welfare cash assistance over a longer period of time. The policy community is particularly interested in understanding the personal, family, and community-level barriers current recipients may face, as well as specific characteristics and skills that may provide opportunities for employment and future self-sufficiency.

There have been several successful efforts to measure the characteristics of welfare recipients beyond

demographics. For example, both Missouri and Nebraska are using telephone interviews to collect data on barriers to employment among current and former welfare recipients. The National Survey of America's Families is another example of a telephone survey that includes questions on a variety of potential barriers to employment including mental health. The Women's Employment Survey collects a rich set of in-person interview data on the characteristics of current and former welfare recipients, including domestic violence and substance abuse, in one Michigan County, and CalWORKS Needs Assessment examines health-related and other barriers to self-sufficiency in Alameda County, California. In March 2001, a workshop sponsored by ASPE and co-organized with Sheldon Danziger, principal investigator for the Women's Employment Survey, explored the use of measures in a telephone survey to capture such potential barriers as domestic violence, mental health, physical health, and substance use and abuse.

Based on studies to date, it is clear that the information required to understand the detailed characteristics and circumstances of this population is not available in administrative data sources. Hence, survey data methods are needed for these state and county-level TANF caseload projects.

Part II. Purpose and Responsibilities

Purpose

The purpose of this announcement is to partner with states and large counties through cooperative agreements to support their research efforts on the characteristics and circumstances of current Temporary Assistance to Needy Families (TANF) recipients. ASPE is committed to using the research funds appropriated by Congress to help build state and local capacity to conduct studies of the outcomes of welfare reform. Through these cooperative agreements, ASPE hopes to support state and local efforts to gather a variety of information about the above individuals and their families, including their demographic characteristics, employment and economic circumstances, and potential personal, family and community-level barriers to employment and economic self-sufficiency. Again, while TANF administrative records include basic data on TANF recipient characteristics, they do not provide sufficiently detailed information on recipient needs, barriers to work, and outcomes.

This research will allow states and large counties to learn about the characteristics of families who receive TANF cash assistance at a given point in time. What are the characteristics of recipients and their families? What are the characteristics of employed recipients? What types of barriers do recipients face and how do these barriers differ between working and non-working recipients? How are such families faring in terms of economic and non-economic family well-being?

While applicants have the flexibility to define their specific study population, states' and localities' understanding of their own caseloads as well as a broader understanding of the circumstances of the TANF population as a whole, is achieved best with some cross-state comparability. The National Academy of Sciences has also indicated that increased comparability across state and local area welfare studies is needed for providing the most useful knowledge to the wider research and policy community and should be a high priority. To achieve cross-study comparability it is preferred that the study populations identified include all single-parent families receiving TANF cash assistance at a given point in time. This preferred study population would include child-only cases where a single parent is present in the household. To meet state-specific policy and research needs, states and counties may also choose to stratify their samples of the study population and/or to broaden their study populations to include additional TANF cash recipients (*e.g.*, two-parent cases, all child-only cases) or recipients of other forms of TANF assistance in the same month.

Applicants are encouraged to propose to draw their sample cohorts of TANF recipients from their TANF administrative data files so as to minimize the amount of time between sample identification and the desired timing for survey implementation. This would maximize the number of survey respondents still receiving TANF at the time of the interview.

Based on prior work, telephone survey instruments have been developed to address this population. ASPE will provide these instruments to the grantees and will work closely with them to finalize a data collection instrument. Grantees will have the opportunity to include questions that meet their own state-specific research and policy needs. It is anticipated that the total time to administer the survey instrument will be approximately 30–40 minutes over the telephone. Applicants should assume a survey instrument will be completed and cleared by the Office of Management and Budget (OMB) by March 2002.

Applicants may propose to draw stratified samples based on subgroups of particular interest to ensure sufficient sample size for analysis. For example, states may want to stratify their samples of single-parent recipients based on length of the current welfare spell or other spell dynamics. Using administrative data on months of past welfare receipt, a grantee could oversample long-term recipients (*e.g.*, recipients for 24 or more months) or ''cyclers'' (*e.g.*, recipients with multiple spells over a given time period). Grantees may also choose to stratify their samples and conduct subgroup analyses based on state-specific policy interests such as teen parents, immigrants, non-employed recipients, sanctioned recipients, recipients who are close to reaching time limits, or other special populations (*e.g.*, the disabled, those with substance abuse problems). Subgroup comparisons across other characteristics, including race, age and geographic area (including urban/rural) are also encouraged. While ASPE understands that grantees will vary in the types of subgroup analyses that are of interest and that can be conducted, where possible ASPE will work closely with individual grantees to develop common definitions of subgroups across studies (*e.g.*, long-term recipients).

Grantees are also encouraged to augment their survey data with administrative records to capture welfare and work histories. For example, projects could include retrospective data on prior welfare receipt and could continue to track welfare participation data post-interview. These individual records drawn from state TANF data files should be linked with the survey data collected. This combination of survey and administrative data will provide analysts with answers to a wider range of questions than would be possible with only one type of data.

Applicants for the ASPE cooperative agreements may propose to augment their analyses with administrative data from additional programs. For example, some states or localities may choose to look at linked administrative data on TANF and child welfare to address the characteristics of the caseload vis a vis contacts with the child welfare system. Grantees could also choose to examine linked administrative data on earnings (using Unemployment Insurance records) and on participation in multiple public programs (*e.g.*, TANF, Medicaid, the Food Stamp Program, and child care) in an effort to understand

work and program histories as well as post-interview employment and program participation.

ASPE is interested in funding state and local area studies that examine the interrelationships of demographic characteristics, employment and economic outcomes, and potential barriers to employment and self-sufficiency for a sample of current recipients, with subgroup analyses proposed by the applicants. Below is a list of general topics and some examples of specific items states and localities may want to include in these studies. It is not meant to be exhaustive of all topics that may be included in each individual grantee's study. We encourage applicants to indicate particular topics from the list below that represent the most important data needs for their state or county. In addition, if prospective applicants have additional topics and survey questions they feel are relevant to their own state-specific information needs, they are encouraged to raise these survey topics and the associated questions they wish to answer in their applications. Indication of topics and survey questions by applicants will aid in the background preparation of survey questions to be cleared by the Office of Management and Budget by March 2002.

Anticipated topics fall into three interrelated categories: (1) Demographic characteristics of the caseload; (2) employment and economic outcomes of recipients; and (3) barriers to employment and self-sufficiency.

1. *Demographic Characteristics of the Caseload:* Age (of recipient, children), race/ethnic background, marital status, number of children, educational attainment, household composition, pregnancies and births, and living arrangements (including family and child moves).

2. *Employment and Economic Outcomes of Recipients:* Employment status, reasons not working, participation in work programs and job skills training, utilization of job search services and/or basic work orientation services, earnings, income, child support payments.

3. *Potential Barriers to Employment and Self-Sufficiency.* Personal Barriers: Very low education levels, few job skills, low levels of prior labor force participation, illiteracy, limited English language fluency, lack of basic work orientation skills (*e.g.*, dress, punctuality, attendance, following instructions), physical and mental health problems and disabilities, substance abuse issues, and criminal records or involvement with the legal system.

Family Barriers: The presence of very young children, presence of children or other family members with disabilities or chronic health problems, problems with child care, domestic violence, and presence of family members with criminal records or involvement with the legal system.

Community Barriers: Poor public transportation, high crime rates, housing problems including lack of affordable housing, inadequate child care availability, inadequate job availability, and inadequate availability of services.

Grantees may also be interested in additional topics such as: utilization of specific state program services, receipt of child care benefits, measures of hardship and family well-being, housing subsidies and housing insecurity, health insecurity, food insecurity, extended family support, or other topics of interest to state and federal policymakers. States and counties should include in their applications any additional survey topics or concepts of interest and the related policy questions these survey items will be used to answer. Applicants are encouraged to include examples of these specific survey questions, if available, in an appendix.

Cooperative Agreement

ASPE will make awards under this announcement using the cooperative agreement mechanism. A cooperative agreement is a legal agreement between the Department of Health and Human Services (DHHS) and the recipient in which DHHS provides financial assistance and substantial federal programmatic involvement with the recipient during the performance of the project. In a cooperative agreement, DHHS and the recipient of federal funds share roles and responsibilities. The following two sections outline the responsibilities of the grantee and DHHS (respectively) in conducting activities to achieve the purpose of this project.

Grantee Responsibilities

1. Prior to completion of final work plans, grantees will take part in an ongoing joint discussion of their proposed study designs, a survey instrument under development, and table shells used for reporting selected results. As part of this early process, a meeting will be held for the grantees and relevant federal personnel in Washington, D.C., to discuss the preliminary methodology and design of the research projects. Grantees should plan to attend this meeting. This ongoing process will allow for knowledge sharing across the various projects, as well as encourage peer-to-peer contacts among the grantees.

2. No later than ninety (90) days after the date of award, the grantee shall submit an outline of progress to date, including efforts to secure subcontractors if applicable, and a final work plan that is based on and updates the work plan submitted in the original application.

3. Grantees should provide concise quarterly progress reports fifteen (15) days after the end of each calendar quarter. The specific format and content for these reports will be provided by the Federal Project Officer.

4. To continue the ongoing discussion of project implementation and results, a second meeting for grantees will be held approximately 11 to 12 months after the start of the grant period. Grantees should plan to attend. The meeting will provide the grantees with an opportunity to continue their joint discussions of survey administration and data analysis, and to share their preliminary project results with other grantees.

5. After completing the full project, grantees should provide ASPE with copies of their own state or county final reports. Grantees should provide at least three (3) copies of their final reports to the Grants Officer before the completion of the project. Grantees should plan to provide one unbound copy, suitable for photocopying; if only one is the original (has the original signature, is attached to a cover letter, etc.), it should not be this copy. State or county final reports should also be provided in electronic form on an IBM PC compatible 3 ½ inch diskette in a word processing format compatible with ASPE software (currently WordPerfect 8).

6. To encourage wider analysis, the grantee is required to make all data available to the research community. To the extent practicable, grantees are encouraged to follow guidance previously developed by a workgroup of grantees on producing and documenting data files (see *http://aspe.hhs.gov/hsp/leavers99/datafiles/index.htm* for current guidance for fiscal years 1998 to 2000 Welfare Outcomes grantees). The data file and documentation for all survey and administrative data compiled under this effort should be made available for broader distribution to the research community prior to the completion of the project. If the data file has been edited to ensure confidentiality of individuals, the grantee has the option of designating the data file as a public-use data file. If not, the data file should be made available to researchers under restricted-access conditions to ensure confidentiality.

Grantees should plan to deposit these databases and documentation in an ASPE-designated central and secure depository. For example, ASPE is working with the fiscal years 1998 to 2000 grantees to place most of their Welfare Outcomes data files at the Research Data Center (RDC) of the National Center for Health Statistics in Hyattsville, Maryland. The RDC controls and monitors access by researchers to guard against breaches of confidentiality; associated costs are not the responsibility of the grantees.

ASPE Responsibilities

1. ASPE shall convene two meetings of grantees, federal personnel, and relevant experts in the areas the grantees choose to address. These meetings will allow for technical assistance and peer-to-peer contacts both before final research design and survey instrument decisions have been made and after the first, preliminary results are available.

2. ASPE shall work with grantees to develop a survey instrument.

3. ASPE shall work with grantees to develop table shells for reporting selected results.

4. ASPE shall provide consultation and technical assistance in the planning and operation of grant activities. This will include working closely with states and localities on the production and documentation of data files.

5. ASPE will work with individual grantees on their data analysis and in preparing any reports and/or publications of the results.

6. ASPE shall assist in information exchange and the dissemination of state and local area reports to appropriate federal, state, and local entities.

7. ASPE shall facilitate arrangements to make data files available to the broader research community under restricted-access conditions to ensure confidentiality. ASPE will designate a central, secure depository for the restricted-access databases that grantees will provide at the end of the grant period.

Part III. Application Preparation and Evaluation Criteria

This section contains information on the preparation of applications for submission under this announcement, the forms necessary for submission, and the evaluation criteria under which the applications will be reviewed. Potential grant applicants should read this section carefully in conjunction with the information provided above. The application must contain the required federal forms, title page, table of contents, and sections listed below. All pages of the narrative should be numbered.

The application should include the following elements:

1. *Abstract:* A one-page summary of the proposed project.

2. *Goals and Objectives of the Project:* An overview that describes (1) The project; (2) state-specific information needs and policy questions to be investigated; (3) proposed accomplishments; and (4) knowledge and information to be gained from the project by the applicant, policymakers, and the research community. Applications should include specific policy questions to be answered; particular items of interest on the list of proposed topics for a survey instrument; identified gaps (if any) in the included survey topics; and any additional information that would be helpful for the grantee to gather from the sample of TANF recipients (including any questions the additional survey data would help to answer and examples of specific survey questions if available). The application should also describe how the applicant views the importance of this study and how each applicant plans to use the information collected.

If the study builds on any current project, the applicant should describe how funding under this announcement will enhance, not substitute for, current state or local efforts. Applications from states and counties that received funding from ASPE previously are not precluded from submitting applications under this announcement; however, such applications will be graded only on the Evaluation Criteria listed below and will receive no preferential treatment during the award process.

3. *Methodology and Design:* Provide a description and justification of how the proposed research project will be implemented, including definition of study population, data collection activities, use of existing data sources, methodologies, and an analytic research plan. The research design must appropriately link policy questions, data sources, and analyses, and must employ technically sound and appropriate approaches, design elements and procedures. The research plan should:

(a) Describe in detail the methodology the applicant will use to extract a sample of TANF recipients in the sample month, including detailed information on plans for drawing a stratified sample if applicable. Sample sizes should be large enough to make statistically reliable within-group estimates and comparisons between planned subgroups.

(b) Identify and describe the methodology used to gather survey data including the sampling plan, the survey mode, and the steps that will be taken to address any biases inherent in each. These should include steps planned to ensure a high response rate, such as in-person follow up to locate those who are difficult to contact, and steps taken to analyze differences between respondents and non-respondents, such as comparisons based on administrative data.

(c) If applicant proposes to use administrative data, describe the methods used to clean, standardize and link case-level administrative data from different administrative sources (if applicable) as well as the methods used to match case records between TANF administrative data and survey data.

(d) identify the methodology to be used to analyze the data and organize their final report. Simple tabular analysis, descriptive statistics, and associated tests for statistical significance are appropriate. More complex data analysis is acceptable but not expected.

To the extent that the analysis uses data on individuals from multiple, separate sources, such as administrative databases from several state agencies, the application should discuss measures taken to maintain confidentiality, as well as demonstrate that the grantee has obtained authorized access to those data sources. The preferred form of proof is a signed interagency agreement with each of the relevant agencies/departments. Though not preferable, letters of support from the appropriate agencies are acceptable, provided that the letters clearly state that the proposing agency has the authorization to access and link all necessary data. Grant applicants must ensure that the collected data will only be used for management and research purposes, and that all identifying information will be kept completely confidential. Applicants should present the methods that will be used to ensure confidentiality of records and information once data are made publically available for research purposes.

4. *Experience, Capacity, Qualifications, and Use of Staff:* Briefly describe the grant applicant's organizational capabilities and experience in conducting pertinent research projects. The application should describe the applicant's experience in conducting relevant surveys (*e.g.*, experience in locating respondents and in completing interviews with similar populations) or identify key subcontractors with such experience. For applicants proposing administrative data analysis, the

application should detail the applicant's experience in linking administrative records across administrative sources and between administrative and survey data sources (as applicable), and in conducting research based on administrative data or identify key subcontractors with such experience.

If the grant applicant plans to contract for any of the work (*e.g.*, survey administration or data-linking), applications should include relevant information on any similar procurement activities and on their experiences in providing oversight on similar data projects. In addition, if the contractors have not been retained, the applicant should describe the process by which they will be selected and the time line for this selection process. Identify the key staff who are expected to carry out the project and provide a resume or curriculum vitae for each person. Provide a discussion of how key staff will contribute to the success of the project, including the percentage of each staff member's time that will be devoted to the project. Finally, applicants should demonstrate access to computer hardware and software for storing and analyzing the data necessary to complete this project.

5. *Work Plan:* A work plan should be included which lists the start and end dates of the project, a time line that indicates the sequence of tasks necessary for the completion of the project, and the responsibilities of each of the key staff. In listing the sequence of tasks, the plan should provide sufficient detail to demonstrate the applicant has carefully thought through the necessary steps to complete the project. The plan should identify the total time commitments of key staff members in both absolute and percentage terms, including other projects and teaching or managerial responsibilities. Grantees should assume a survey instrument will be cleared by the Office of Management and Budget by March 2002 allowing for interviews to begin as early as April 2002. Due to the level of effort needed to conduct these survey data studies, grantees may want to consider work plans with time lines of seventeen months.

The work plan also should include plans for dissemination of the results of the study (*e.g.*, articles in journals, presentations to state legislatures or at conferences) and plans for making resulting data files available to qualified researchers. As noted above, ASPE prefers that appropriately documented data files be placed at a controlled environment such as the Research Data Center of the National Center for Health Statistics or be edited as appropriate for confidentiality and issued as a public-use data file. If the grant applicant does not plan to provide a public-use file or to place the data at a controlled environment, the application should explain why and should fully articulate how the applicant will make the data available to qualified researchers.

6. *Budget:* Grant applicants must submit a request for federal funds using Standard Form 424A and include a detailed breakdown of all federal line items. A narrative explanation of the budget should be included that states clearly how the funds associated with this announcement will be used and describes the extent to which funds will be used for purposes that would not otherwise be incorporated within the project. The applicant should also document the level of funding from other sources and describe how these funds will be expended.

As noted above, applicants should budget for two trips to the Washington, D.C. area, for at least two members of the research team. The preparation and documentation of a public-use data file or other efforts to make the resulting data publically available should also be accounted for in the project budget.

Review Process and Funding Information

Applications will initially be screened for compliance with the timeliness and completeness requirements. Three (3) copies of each application are required. One of these copies must be in an unbound format, suitable for copying. If only one of the copies is the original (i.e., carries the original signature and is accompanied by a cover letter) it should not be this copy. Applicants are encouraged to send an additional two (2) copies to ease processing, but the application will not be penalized if these extra copies are not included. The grant applicant's Standard Form 424 must be signed by a representative of the applicant who is authorized to act with full authority on behalf of the applicant.

A federal review panel will review and score all applications submitted by the deadline date that meet the screening criteria (all information and documents as required by this announcement). The panel will use the evaluation criteria listed below to score each application. The panel results will be the primary element used by the Assistant Secretary for Planning and Evaluation when making funding decisions. The Department reserves the option to discuss applications with other federal or state staff, specialists, experts and the general public. Comments from these sources, along with those of the reviewers, will be kept from inappropriate disclosure and may be considered in making an award decision.

As a result of this competition, four to five grants of $200,000 to $250,000 each are expected to be made from funds appropriated for fiscal year 2001. Additional awards may be made depending on the policy relevance of applications received and the available funding, including funds that may become available in fiscal year 2002.

State Single Point of Contact

DHHS has determined that this program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants are not required to seek intergovernmental review of their applications within the constraints of Executive Order 12372.

Deadline for Submission of Applications

The closing date for submission of applications under this announcement is June 18, 2001. Hand-delivered applications will be accepted Monday through Friday, excluding federal holidays, during the working hours of 9:00 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building, located at 200 Independence Avenue, SW in Washington, D.C. When hand-delivering an application, call (202) 690–8794 from the lobby for pick up. A staff person will be available to receive applications.

An application will be considered as having met the deadline if it is either received at, or hand-delivered to, the mailing address on or before June 18, 2001, or postmarked before midnight three days prior to June 18, 2001, and received in time to be considered during the competitive review process (within two weeks of the deadline).

When mailing applications, applicants are strongly advised to obtain a legibly dated receipt from the U.S. Postal Service or from a commercial carrier (such as UPS, Federal Express, etc.) as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. If proof cannot be provided, the application will not be considered for funding. Private metered postmarks will not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late applications and will not be considered or reviewed in the current competition. DHHS will send a letter to this effect to each late applicant.

DHHS reserves the right to extend the deadline for all applications due to: (1) Natural disasters, such as floods, hurricanes, or earthquakes; (2) a widespread disruption of the mail; or, (3) if DHHS determines a deadline extension to be in the best interest of the federal government. The Department will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Application Forms

Application instructions and forms should be requested from and submitted to: Adrienne Little, Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, Room 405F, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201. Telephone: (202) 690–8794. Requests for forms and questions (administrative and technical) will be accepted and responded to up to ten (10) working days prior to closing date of receipt of applications.

Copies of this program announcement and all of the required forms may also be obtained electronically at the ASPE World Wide Web Page: *http://aspe.hhs.gov.* You may fax your request to the attention of the Grants Officer at (202) 690–6518. Grant applications may not be faxed or submitted electronically.

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ASPE World Wide Web Page containing electronic copies of this program announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

Also see section entitled ''Components of a Complete Application.'' All of these documents must accompany the application package.

Length of Application

In no case shall an application for the ASPE grant (excluding the resumes, appendices and other appropriate attachments) be longer than thirty (30) single-spaced pages with 12 point font and one-inch margins on top, bottom, left, and right. Applications should not be unduly elaborate, but should fully communicate the applicant's proposed study to the reviewers.

Selection Process and Evaluation Criteria

Selection of successful applicants will be based on the technical and financial criteria described in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments, and assign numerical scores. The review panel will prepare a summary of all applicant scores, strengths and weaknesses, and recommendations and submit it to the Assistant Secretary for Planning and Evaluation for final decisions on the award.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, grant applicants should take care to ensure that all criteria are fully addressed in the applications. Grant applications will be reviewed as follows:

1. *Goals, Objectives, and Potential Usefulness of the Analyses* (25 points). The potential usefulness of the objectives and how the anticipated results of the proposed project will advance policy knowledge and development. If the proposed project builds on previous work, the application should explain how. Applications will be judged on the quality, policy relevance and adequate discussion of proposed questions to be addressed and proposed analyses, including subgroup analyses.

2. *Quality and Soundness of Methodology and Design* (30 points). The appropriateness, soundness, and cost-effectiveness of the methodology, including the research design, selection of existing data sets, definition of the study population, plans for survey administration, adequacy of sample sizes, statistical techniques, and analytical strategies.

Reviewers will evaluate the methodology proposed to gather survey data. In particular, reviewers will evaluate the sampling plan, the survey mode, and the steps that will be taken to address any biases inherent in each. This will include evaluating steps planned to ensure a high response rate, such as in-person follow up to locate those who are difficult to contact, and steps planned to analyze differences between respondents and non-respondents, such as comparisons based on administrative data.

For planned administrative data analysis, a critical scoring element will be the applicant's discussion of the methods used to clean, standardize, and link the individual-level or case-level data from different sources, including links between administrative data and survey data.

Reviewers also will evaluate the proposed data analysis, the planned organization of the applicant's final report, and the applicant's discussion of how different data sources (e.g., data from administrative sources, survey data collection, other research if applicable) will be synthesized to enhance the proposed analyses.

3. *Qualifications of Personnel and Organizational Capability* (20 points). The qualifications of the project personnel for conducting the proposed research as evidenced by professional training and experience, and the capacity of the organization to provide the infrastructure and support necessary for the project. Reviewers will evaluate the principal investigator and staff on research experience and demonstrated research skills.

Applications will be evaluated in terms of the applicant's or subcontractor's experience in conducting relevant surveys, including experience in securing high response rates from welfare recipients or other low-income populations. Applications that involve linking of administrative data and assembling of large databases will be scored on the applicant's or subcontractor's experience with such linking efforts. If the applicant plans to contract for any of the work (e.g., data-linking or survey administration), applicants will be evaluated on any relevant procurement activities and on their experiences in providing oversight on similar data projects. In addition, if the contractors have not been retained, reviewers will consider the process by which they will be selected and the time frame for this selection.

Reviewers may consider references for work completed on prior research projects. Principal investigator and staff time commitments also will be a factor in the evaluation. Reviewers will rate the applicant's pledge and ability to work in collaboration with other scholars or organizations in search of similar goals. Reviewers also will evaluate the applicant's demonstrated capacity to work with a range of government agencies.

4. *Ability of the Work Plan and Budget to Successfully Achieve the Project's Objectives* (20 points). Reviewers will examine: (a) Whether the work plan and budget are reasonable and sufficient to ensure timely implementation and completion of the study; (b) whether the application

demonstrates an adequate level of understanding by the applicant of the practical problems of conducting such a project; (c) the use of any additional funding and the role that ASPE funds will play in the total project; and (d) whether the applicant has shown how results will be disseminated.

The applicant should also discuss in detail how resulting data will be made available to qualified researchers. As noted above, ASPE prefers that appropriately documented data files be placed at a controlled environment such as the Research Data Center of the National Center for Health Statistics or be edited as appropriate for confidentiality and issued as a public-use data file. If the grant applicant does not plan to provide a public-use file or to place the data at a controlled environment, the application should explain why and should fully articulate how the applicant will make the data available to qualified researchers.

5. *Ability to Sustain Project After Funding* (5 points). One of ASPE's goals is to help states and large counties build their capacity to study the outcomes of welfare reform. Grant applicants should identify an ability to continue their studies after the funding period closes. To this end, reviewers will consider whether the application adequately addresses questions such as the following: To what extent could the survey administered and the administrative data linkages performed on the cohort under study be duplicated for later cohorts? To what extent could additional survey data or data linkages be collected/performed to follow the initial cohort for additional years? What agency(ies) will have responsibility for and jurisdiction over the resulting data sets after the project is completed? Are there any sources of financial and staff support for maintaining the database?

Disposition of Applications

1. *Approval, Disapproval, or Deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of Disposition.* The Assistant Secretary for Planning and Evaluation will notify the applicants of the disposition of their applications. If approved, a signed notification of the award will be sent to the business office named in the ASPE checklist.

3. *The Assistant Secretary's Discretion.* Nothing in this announcement should be construed as to obligate the Assistant Secretary for Planning and Evaluation to make any awards whatsoever. Awards and the distribution of awards among priority areas are contingent on the needs of the Department at any point in time and the quality of the applications that are received.

The Catalog of Federal Domestic Assistance number is 93–239.

Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424);
2. Budget Information—Non-Construction Programs (Standard Form 424A);
3. Assurances—Non-Construction Programs (Standard Form 424B);
4. Table of Contents;
5. Budget Justification for Section B Budget Categories;
6. Copy of the applicant's Approved Indirect Cost Rate Agreement, if applicable;
7. Project Narrative Statement, organized in five sections, addressing the following topics (limited to thirty (30) single-spaced pages):
   (a) Abstract,
   (b) Goals, Objectives and Usefulness of the Project,
   (c) Methodology and Design,
   (d) Background of the Personnel and Organizational Capabilities and
   (e) Work Plan (timetable);
8. Any appendices or attachments;
9. Certification Regarding Drug-Free Workplace;
10. Certification Regarding Debarment, Suspension, or other Responsibility Matters;
11. Certification and, if necessary, Disclosure Regarding Lobbying;
12. Supplement to Section II—Key Personnel;
13. Application for Federal Assistance Checklist.

Dated: April 26, 2001.

William F. Raub,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 01–11301 Filed 5–3–01; 8:45 am]

BILLING CODE 4154–05–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Director, National Institutes of Health, the authorities under Public Law 106–310 (Children's Health Act of 2000), title I, section 104 (a) and (c) as amended, to establish and to administer the Autism Coordinating Committee. I am also delegating the authority under title I, section 104(b)(1) to select as members of the Committee, such Directors of national research institutes and the Centers for Disease Control and Prevention as appropriate. I will retain the authority under title 1, section 104(b) (1) and (2) pertaining to the selection of additional members of the Committee.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulation. In addition, I ratify and affirm any actions taken by you or your subordinates which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

This delegation is effective upon date of signature.

Dated: April 25, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–11300 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 01043]

Program To Conduct and Coordinate Site-Specific Activities; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to Conduct and Coordinate Site-Specific Activities. This program addresses the ''Healthy People 2010'' focus area of Environmental Health.

The purpose of the program is for recipients to conduct site-specific health activities to determine the public health impact of human exposure to hazardous substances at hazardous waste sites or releases. The ultimate goal of this program is to reduce exposures to hazardous substances and mitigate potential adverse health effects from such exposures. Specifically, funds will be used to build capacity in coordination and cooperation with ATSDR to conduct site-specific activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA),

including public health assessments, health consultations, exposure investigations, community involvement activities, health education, follow-up health investigations/studies and other programs related to exposure to hazardous substances in the environment. ATSDR considers a site as consisting of the actual boundaries of a release or facility along with the resident community and area potentially impacted by the subject release or facility.

B. Eligible Applicants

Assistance will be provided only to the health departments of states or their bona fide agents, and additionally to the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. In consultation with states, assistance may be provided to political subdivisions of states.

Note: Title 2 of the United States Code, Chapter 26, Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $7,900,000 is available in FY 2001 to fund 23 to 28 awards. It is expected that the average award will be $300,000, ranging from $100,000 to $400,000. It is expected that the awards will begin on or about September 29, 2001, and will be made for a 12-month budget period within a project period of five years. Funding estimates may change.

Approximately $7,400,000 will be available to fund 23 to 28 awards for site specific activities.

Approximately $500,000 will be available to recipients applying to conduct health study activities. These funds will be available for conducting site-specific human health studies after review of site-specific data, submission of a study protocol with a supplemental budget for the proposed study, technical, objective, and peer review and approval of study protocols. If health study activities are not requested with the initial application, requests may be made in subsequent continuation applications. In years subsequent to FY 2001, it is anticipated that funds in the amount of $400,000 to $500,000 will be available for site-specific studies.

Applicants are encouraged to participate in public health activities that are under the jurisdiction of other federal agencies such as the Department of Defense (DOD), Department of Energy (DOE), National Aeronautics and Space Administration (NASA), and Bureau of Indian Affairs (BIA). Applicants must propose specific activities and once approved and funded, the funding for these activities must be tracked separately from the funds received for activities at other sites. In subsequent years of this announcement, recipient's requests for supplemental funds to conduct site-specific activities under the jurisdiction of other federal agencies must be coordinated with the Technical Project Team (TPT).

Applicants must compete for Site-Specific Core Activities (Public Health Assessments/Consultations, Exposure Investigations, Community Involvement and Preventive Health Education). Site-Specific Health Investigations/Studies may be requested as supplemental funding on an as-needed basis.

Continuation awards within an approved project period will be made on the basis of satisfactory progress in meeting the program goals and objectives as evidenced by required reports and the availability of funds.

Grantees currently funded under ATSDR's Program Announcements 607 or 98064 can apply under this announcement. If successful, the current award would replace the previous award (competitive renewal) for a total project period of five years. If a current grantee applies under this competitive renewal announcement and is unsuccessful or chooses not to apply under this announcement, it will not jeopardize the current award; ATSDR will honor the current awards through the expiration of the project period, subject to satisfactory progress and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested. However, the recipient, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party.

Equipment may be purchased with cooperative agreement funds. However, the equipment proposed should be appropriate and reasonable for the activity to be conducted. The applicant, as part of the application process, should provide: (1) a justification for the need to acquire the equipment, (2) the description of the equipment, (3) the intended use of the equipment, and (4) the advantages/disadvantages of purchase versus lease of the equipment (if applicable). Requests for equipment purchases will be reviewed and approved only under the following conditions: (1) ATSDR retains the right to request return of all equipment purchased (in operable condition) with cooperative agreement funds at the conclusion of the project period, and (2) equipment purchased must be compatible with ATSDR hardware. Computers purchased with ATSDR funds should be IBM compatible and adhere to the Centers for Disease Control and Prevention (CDC)/ATSDR hardware standards.

Recipient activities may not be conducted with funds from this cooperative agreement program at any federal site where the state is a party to litigation at the site.

Funding Preferences

Funding preferences may be given for the following:

1. Geographic distribution across the entire United States.

2. Number of Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) sites (federal and non-federal) based on most current listing by EPA.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities and 2. Recipient Other Activities, and ATSDR will be responsible for the activities listed under 3. ATSDR Activities and 4. ATSDR Other Activities.

1. Recipient Activities

a. *Public Health Assessment Activities*—Conduct Public Health Assessments, including petitions for National Priorities List (NPL), Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) or other state-designated sites, facilities or releases within the recipient's territorial boundary in accordance with the methodology provided in the ATSDR Public Health Assessment Guidance Manual, ATSDR's Review and Handling Procedures for Public Health Assessments, and other applicable guidance. Prepare additional site evaluations (public health assessments

or health consultations) to update public health assessments.

b. *Petitions for Public Health Assessment Activities*—Conduct initial data collection and site visit activities to decide how to respond to petitions for public health assessments. Make determinations of public health activities in response to petitions from individuals, physicians, community groups, and others. Review existing information and data pertaining to a site or release identified in a petition.

c. *Health Consultations*—Prepare a written or verbal response to a specific question or specific request for information about health risks posed by a specific site, chemical release, hazardous material, or other emergency response actions. Health consultations may also be written as a follow up to Public Health Assessments. Consultations may include the evaluation of environmental data, community concerns, health outcome data, and demographic characterizations, and the conduct of community outreach and interaction activities and site work plans.

d. *Exposure Investigations*—Exposure Investigations may be conducted as part of the public health assessment or health consultation process to better define human exposures. Exposure investigations include the collection of environmental or biological data and require the approval from the Technical Project Team (TPT) prior to the initiation of sample collection.

e. *Community Involvement*—

(1) Develop a site-specific community involvement plan which, at a minimum, should include: (a) Health communication strategies, (b) an implementation strategy, and (c) an evaluation strategy.

(2) Implement the community involvement plan and, where warranted based on the needs of the community, establish informal community workgroups or Community Assistance Panels.

f. *Site-Specific Health Education*—Site-specific environmental health education is a behavioral science, theory based process. An effective environmental health education intervention provides a clear, appropriate, and audience-specific message to assure sufficient knowledge and skills are in place to make informed decisions. Audiences may include health care providers, community members, elected officials, and sensitive populations such as children and women of child-bearing age.

(1) Prioritize sites where specific actions can be taken to minimize exposures or where significant public health concern exists.

(2) Assess needs and resources of the target audience and document the data in the appropriate Division of Health Education and Promotion (DHEP) reporting tool.

(3) Develop and document the health education intervention plan which includes goals, objectives, activities, and evaluation.

(4) Implement the activities in the intervention plan.

(5) Evaluate the plan by comparing baseline information with information that results after the intervention.

Some suggested tools for planning and evaluating health education activities include the PRECEDE–PROCEED planning model which can be found at the Internet address http://www.med.usf.edu/~kmbrown/PRECEDE_PROCEED_Overview.htm and also, the Evaluation Framework for Community Health Programs (June, 2000, Center for Advancement of Community Based Public Health).

g. *Stakeholder Involvement*—Develop a plan for an integrated program focusing on coordinating site activities with stakeholders such as ATSDR, EPA, tribal communities, state and local health and environmental offices and agencies, communities, etc.

h. *Site-Specific Evaluation Plan*—Develop a site-specific evaluation plan prior to conducting activities. The plan should contain a component for the applicable activities undertaken at the site. Conduct evaluation of activities and projects and site-specific programs to determine if the requestor's needs have been met as well as the intended purpose of the activities. For evaluation planning purposes, formative process and impact/outcome measures should be included in the evaluation plan. Refer to the CDC Framework for Program Evaluation in Public Health (MMWR, September 17, 1999/48 RR11:1–40) as a model. ATSDR is currently developing a data base which will serve as a collection point for information on the impact and outcome of site activities.

i. *Health Investigations/Studies*—Based on the evaluation and recommendation of the TPT or other ATSDR decision-making process, and inclusion in the site public health action plan, follow-up health investigations/studies may be undertaken in populations whose health is or has been impacted by hazardous waste sites. Examples of follow-up health investigations/studies are: Biological Indicators of Exposure Studies, Cluster Investigations, Case Studies, Health Statistics Reviews, Community Health Investigations, and Site-Specific Surveillance.

(1) Develop a protocol and conduct the recommended study for those studies recommended previously by the TPT or other ATSDR decision-making process. This protocol will undergo scientific peer review as required by ATSDR and may require clearance by the Office of Management and Budget (OMB) before data collection can begin.

(2) Provide proof by citing a state code or regulation or other state pronouncement under authority of law, that medical information obtained pursuant to the agreement will be protected from disclosure when the consent of the individual to release identifying information is not obtained.

(3) Evaluation—Develop a site-specific evaluation plan as part of the work plan for Public Health Studies/Investigations, prior to the conduct of activities, as indicated in paragraph h. above.

j. *Annual Plan of Work (APOW)*—Collaborate with the TPT to develop a mutually agreed upon APOW to include the proposed site-specific activities to be conducted for the budget period, and respective time lines. The TPT is made up of representatives from the ATSDR Division of Health Assessment and Consultation (DHAC), ATSDR Division of Health Studies (DHS), ATSDR Division of Health Education and Promotion (DHEP), ATSDR Office of Regional Operations (ORO), and state and local counterparts. The TPT is responsible for assuring the planning, implementation, and evaluation of all public health actions for each site assigned to the team. The TPT meets to review data relative to the site and considers the following questions: is there or has there been a completed exposure pathway, and are humans at health risk?

k. *Annual Program Evaluation*—Collaborate with ATSDR on the evaluation of the total program using a standard evaluation instrument developed for this program. As a part of this effort, recipient will include the effectiveness of their overall capacity building efforts in addressing public health issues in communities living near hazardous waste sites. The results of this evaluation may impact the recipient's funding level in the subsequent years of this program.

2. Recipient Other Activities

a. Participate in the TPT program evaluation, and comply with established review and handling procedures for incorporating the results of recommendations into site evaluation activities.

b. Provide abstraction overview to ATSDR on the APOW and site activities through a shared data base called State Tracking and Reporting System (STARS), or other mechanisms.

c. Review and prepare written comments on EPA's draft Remedial Investigation/Feasibility Study (RI/FS), RI/FS work plans, and Records of Decision, and site-specific documents of the Recipient's environmental department.

d. Workshops—

(1) Participate in local, state, and federal health and environmental workshops and community meetings to discuss and respond to questions concerning a particular site's impact on public health.

(2) Participate in ATSDR-scheduled training classes or workshops to increase knowledge and skills in environmental public health.

e. Respond to ATSDR's requests concerning congressional inquiries/testimonies, program evaluation, or other information in carrying out the purpose of the project.

f. Provide timely responses within two weeks, when possible, to ATSDR's requests for site-specific costs and explanation of activities performed, and supporting documentation for Cost Recovery purposes. (See AR–18 in Attachment I.)

3. ATSDR Activities

a. *Public Health Assessments*—Collaborate with and assist recipient in conducting Public Health Assessment activities on CERCLIS, petition sites, or other state-designated sites, facilities or releases within the recipient's territorial boundary. This includes collaborating and assisting in preparing updates to public health assessments.

b. *Petitions for Public Health Assessment Activities*—Collaborate with and assist recipient in effectively conducting appropriate public health assessment activities in response to petitions from individuals, physicians, community groups, and others.

c. *Health Consultations*—Collaborate with and assist recipient in preparing a written or verbal response to a specific question or specific request for information about health risks posed by a specific site, chemical release, hazardous material, or other emergency response actions.

d. *Exposure Investigations*—Collaborate with and assist recipient in conducting Exposure Investigations.

e. *Community Involvement*—

(1) Assist in developing effective methods to conduct needs assessments in communities near hazardous waste sites and in defining goals and objectives of community involvement activities.

(2) Assist in development, implementation, and evaluation of the community involvement plan.

f. *Site-specific Health Education*—

(1) Collaborate in developing and reviewing all health educational materials to ensure scientific accuracy. Provide existing materials as requested. Collaborate in developing projects for specific target audiences.

(2) Collaborate with the recipient in implementing and evaluating health education programs.

g. *Stakeholder Involvement*—Collaborate with and assist recipient in developing a plan for an integrated program focusing on coordinating site activities with stakeholders.

h. *Site-Specific Evaluation Plan*—Collaborate with and assist recipient in developing a specific evaluation plan prior to conducting activities.

i. *Health Investigations/Studies*—As requested by the recipient, ATSDR is available to provide the following:

(1) Make recommendations regarding appropriate and necessary health investigations/studies.

(2) Provide assistance in both the planning and implementation phases of the field work called for under the study protocol.

(3) Provide consultation and assist in monitoring the data and specimen collection.

(4) Participate in the study analysis.

(5) Collaborate in interpreting the study findings.

(6) ATSDR will conduct technical and peer review.

j. *Annual Plan of Work (APOW)*—Collaborate with and assist recipient in developing a mutually agreed upon APOW that meets the goals of this announcement.

k. *Annual Program Evaluation*—Lead the evaluation of each recipient's total program using a standard evaluation instrument developed for this Program. As a part of this effort, ATSDR will conduct an evaluation of the effectiveness of overall capacity building efforts in addressing public health issues in communities living near hazardous waste sites. The results of this evaluation may impact the recipient's funding level in the subsequent years of this program.

4. ATSDR Other Activities

a. Initiate and conduct the program evaluation by the TPT.

b. Assist with abstraction overview for the database on each site for which site activities have been conducted.

c. Assist with recipient's review and preparation of written comments on EPA's draft Remedial Investigation/Feasibility Study (RI/FS), RI/FS work plans, Records of Decision, and site-specific documents of the recipient's environmental department.

d. Workshops—

(1) Assist recipient with participation in local, state, and Federal health and environmental workshops and community meetings to discuss and respond to questions concerning a particular site's impact on public health.

(2) Initiate and conduct ATSDR-scheduled training classes or workshops to increase recipient's knowledge and skills in environmental public health.

e. Assist recipient with ATSDR's requests concerning congressional inquiries/testimonies, program evaluation, or other information in carrying out the purpose of the project.

f. Provide technical assistance to recipient concerning Cost Recovery requirements.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The application package should be single-spaced, printed on one side, with one-inch margins, and unreduced font. It should not exceed 100 pages, including attachments, and should include a narrative proposal of 60 pages or less.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm* or in the application kit. On or before July 6, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or

(b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by ATSDR. Applicants must compete for site-specific activities, as indicated below in section 1.

The proposed program will account for a total of 50 percent of the score from the evaluation criteria. Applications will be reviewed and evaluated according to the following criteria:

1. Applications for Site-Specific Activities

a. Proposed Program—50 Percent

Applicant's ability to address the following:

(1) Ability to respond to specific public health issues that occur as a result of actual or potential human exposure to a hazardous substance which includes methods to evaluate and analyze toxicological, community, and environmental health data; and ability to conduct and analyze data from exposure investigations.

(2) Description of involvement with communities in response to concern about a particular site's impact on public health. Ability to develop and provide preventive health education in a timely fashion in response to public health issues including appropriateness and thoroughness of the methods used to evaluate preventive health education; and the extent to which the site-specific evaluation plan includes measures of program outcome (i.e., effect of participant's knowledge, attitudes, skills, behaviors, exposure to hazardous substances).

(3) The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(b) The proposed justification when representation is limited or absent.

(c) A statement as to whether the design of the study is adequate to measure differences when warranted.

(d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

b. Program Personnel—25 Percent

The extent to which the proposal has described or provided biographical data on the:

(1) Manner in which an integrated ''site '' team will be developed to address components of this program. A consistent site team is vital to this effort. An integrated health team consists of health assessors, health educators, community involvement specialists, and/or epidemiologists or health scientists.

(2) Appropriate qualifications, experience, leadership ability, and percentage of time project director (or principal investigator) will commit to the project.

(3) Appropriate qualifications, experience, and description of how staff will be utilized in relation to the activities to be performed to accomplish the work and their percentage of time to be spent on the project; curriculum vitae should be provided.

c. Capability—25 Percent

Description of the applicant's capability to carry out the proposed project, suitability of facilities, equipment available or to be purchased for the project, and ability to develop an integrated program focusing on coordinating site activities with stakeholders such as ATSDR, EPA, tribal governments, state and local health and environmental offices and agencies, communities, etc.

d. Program Budget—(not scored)

The extent to which the budget relates directly to project activities, is clearly justified, and is consistent with intended use of funds. The budget should include funds for one health assessor, one health educator, and one epidemiologist or health scientist (if a health study is being conducted or anticipated within the next 12 months) to attend the annual training meeting in Atlanta (five days).

e. Human Subjects—(not scored)

Whether or not exempt from the DHHS regulations, are procedures adequate for the protection of human subjects? Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

2. Applications for Site-Specific Health

Investigations/Studies

Applications for Health Investigations/Studies will be evaluated using the following criteria.

a. Proposed Program—50 Percent

Applicant's ability to address the following:

(1) An understanding of and capability to conduct human health studies. The application for a site-specific study should include a protocol for a human health study from those previously recommended by ATSDR for sites in the recipient's state for which a study has not commenced.

Site-specific protocol will be reviewed based on the following:

(a) The approach, feasibility, adequacy, and rationale of the proposed study design.

(b) The technical merit of the proposed study, including the methods and procedures (including quality assurance and quality control procedures) for the proposed study.

(c) The proposed time line, including clearly established objectives for which progress toward attainment can and will be measured.

(d) The proposed method to disseminate the results of the study to state and local public health officials, community residents, and other concerned individuals and organizations.

(2) The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(b) The proposed justification when representation is limited or absent.

(c) A statement as to whether the design of the study is adequate to measure differences when warranted.

(d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

b. Program Personnel—25 Percent

The extent to which the proposal described or provided biographical data on the:

(1) Manner in which an integrated ''site'' team will be developed to address components of this program. A consistent site team is vital to this effort. An integrated health team consists of health assessors, health educators, community involvement specialists, and/or epidemiologists or health scientists.

(2) Appropriate qualifications, experience, leadership ability, and percentage of time project director (or

principal investigator) will commit to the project.

(3) Appropriate qualifications, experience, and description of how staff will be utilized in relation to the activities to be performed to accomplish the work and their percentage of time to be spent on the project; curriculum vitae should be provided.

c. Capability—25 Percent

Description of the applicant's capability to carry out the proposed project, suitability of facilities, equipment available or to be purchased for the project, and ability to develop an integrated program focusing on coordinating site activities with stakeholders such as ATSDR, EPA, tribal governments, state and local health and environmental offices and agencies, communities, etc.

d. Program Budget—(not scored)

The extent to which the budget relates directly to project activities, is clearly justified, and is consistent with intended use of funds. The budget should include funds for one health assessor, one health educator, and one epidemiologist, health scientist or principal investigator to attend the annual training meeting in Atlanta (five days).

e. Human Subjects—(not scored)

Whether or not exempt from the DHHS regulations, are procedures adequate for the protection of human subjects? Does the application adequately address the requirements of 45 CFR part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

1. Provide CDC with original plus two copies of:

a. Annual progress reports, no more than 45 days after the end of the quarter. The progress reports must report on progress toward completing activities agreed to by ATSDR and the recipient.

b. Financial status report, no more than 90 days after the end of the budget period; and

c. Final financial and performance reports, no more than 90 days afer the end of the project period.

Send the above reports to the Grants Management Specialist identified in Section J., ''Where to Obtain Additional Information'' of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–17 Peer and Technical Reviews of Final Reports of Health Studies—ATSDR
AR–18 Cost Recovery—ATSDR
AR–19 Third Party Agreements—ATSDR
AR–22 Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 104(i) (1)(E), (4), (6), (7), (9), (14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (42 U.S.C. 9604(i)(1) (E), (4), (6), (7), (9), (14) and (15)), and Section 3019 (b) and (c) of the Resource Conservation and Recovery Act (RCRA), as amended (Hazardous and Solid Waste Amendments of 1984) (42 U.S.C. 6939a (b) and (c)). The catalog of Federal Domestic Assistance numbers are 93.161, 93.206, and 93.240.

J. Where To Obtain Additional Information

This and other CDC/ATSDR announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Nelda Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2722, E-mail address: nag9@cdc.gov

For program technical assistance, contact: Sharon Conley, Funding Resource Specialist, Agency for Toxic Substances and Disease Registry, Mailstop 60, 1600 Clifton Road, NE, Atlanta, GA 30333, Telephone number: 404–639–0559, E-mail address: sac7@cdc.gov

Dated: April 30, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–11219 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–169]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from January through March 2001. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on March 23, 2001 (66 FR 16247). This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (42 CFR Part 90). This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. 9604(i)).

Availability

The completed public health assessments and addenda are available

for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assesssments Completed or Issued

Between January 1 and March 31, 2001, public health assessments were issued for the sites listed below:

NPL Sites

California

Chrome Crankshaft and J&S Chrome Plating—Bell Gardens—(PB21–104090)
March Air Force Base(a/k/a March Air Reserve Base)—March Air Force Base—(PB21–104262)

Connecticut

Scovil Industrial Landfill(a/k/a Scovill Industrial Landfill)—Waterbury—(PB21–103303)

Illinois

Koppers Wood Treating Company(a/k/a Koppers Company Incorporated Forest Production Group)—Carbondale—(PB21–104268) Pfizer, Incorporated—East St. Louis—(PB21–104266)

Iowa

Mid-America Tanning Company—Sergeant Bluff—(PB21–102651)

New Hampshire

Cardinal Landfill—Farmington—(PB21–102637)

New Jersey

Ciba Geigy Corporation—Dover Township—(PB21–104088)
Dover Township Municipal Landfill (a/k/a Dover Township Landfill) and Silverton Private Well Contamination Investigation (a/k/a Silverton Wells)—Dover Township—(PB21–104089)
Reich Farm—Dover Township—(PB21–104087)

New York

Anitec Image Corporation—Binghamton—(PB21–102636)
Lehigh Valley Railroad Derailment Site (a/k/a Lehigh Valley Railroad)—Leroy—(PB21–104263)

North Carolina

Georgia Pacific Corporation Hardwood Sawmill—Plymouth—(PB21–102728)

Ohio

Eagle-Picher Industries, Incorporated/Bunting Bearings Corporation (a/k/a Eagle Picher) Delta—(PB21–104264)

South Carolina

Aqua-Tech Environmental, Incorporated (Groce Laboratories)—Greer—(PB21–104394)

Texas

Star Lake Canal (a/k/a Star Lake Canal Site-Port Neches)—Port Neches—(PB21–104265)
State Road 114 Groundwater Plume—Levelland—(PB21–104085)

Vermont

Pownal Tannery—Pownal—(PB21–102652)

Non NPL Petitioned Sites

Connecticut

Yaworski Landfill (aliases: Yaworski Dump and Packer Road Landfill) and Yaworski Waste Lagoon—Canterbury—(PB21–104531)

Massachusetts

Hercules Dumpsite (a/k/a Hercules Landfill)—Mansfield—(PB21–104267)

Georgia

Newtown Community—Gainsville—(PB21–104261)

West Virginia

Vienna Tetrachloroethene—Vienna—(PB21–103465)

Dated: April 30, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–11220 Filed 5–3–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–33]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

State Surveys on Intimate Partner Violence (IPV) and Sexual Violence (SV)—NEW—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention. Violence against women has become a major public health issue in the nation. It is the leading cause of injury for women between the ages of 18 and 44. The National Violence Against Women Survey, conducted from November 1995 to May 1996, estimates that approximately 1.9 million women are physically assaulted annually in this country by an intimate partner (e.g., current or former husband, cohabiting partner, boyfriend or date). The 1994 National Crime Victimization Survey estimates that over 432,000 rapes or sexual assaults were perpetrated against U.S. females, age 12 years and older.

The National Center for Injury Prevention and Control has recognized intimate partner violence (IPV) and sexual violence (SV) as public health problems for several years. Survey data are the most common data used to determine incidence and prevalence rates, risk and resiliency factors, and consequences (e.g., physical injuries, psychological trauma) of IPV and SV. The Department of Justice has compiled a number of one-time looks at VAW from a variety of perspectives, primarily provided by the criminal justice system,

which counts only those cases that are reported.

There is a need for collection of standardized data on a consistent and continual basis, at the state and community levels in order to target limited resources towards populations in greatest need of prevention and intervention programs and services. As a result CDC plans to develop and pilot test two surveys on IPV and SV for possible inclusion in the Behavioral Risk Factor Surveillance System (BRFSS). The surveys will be administered to non-institutionalized women and men, 18 years of age and older. The pilot test will be conducted through a computer-assisted telephone interviewing system, using a sample of women and men randomly selected from six states. The overall benefit of this pilot is to increase knowledge regarding the magnitude and scope of violence against women and men in the U.S. Ultimately, the CDC intends to establish an on-going data collection system for monitoring IPV and SV at the state level.

The goals of the project are to: (1) determine the questions' utility, participant reactions, and length of surveys; and (2) compile and disseminate the results of the pilot test and prepare a report for submission to the BRFSS coordinators for consideration for inclusion as an optional module for FY 2003. There are no costs to respondents.

Survey IPV/SV	Type of respondent	No. of respondents per survey	No. responses per respondent	Avg. burden per response in hours	Total burden in hours
State 1	Female/Male	2400	1	30/60	1,200
State 2	Female/Male	2400	1	30/60	1,200
State 3	Female/Male	2400	1	30/60	1,200
State 4	Female/Male	2400	1	30/60	1,200
State 5	Female/Male	2400	1	30/60	1,200
State 6	Female/Male	2400	1	30/60	1,200
Total					7,200

Dated: April 27, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–11190 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01049]

Prevention of the Complications of Bleeding Disorders through Hemophilia Treatment Centers; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the Prevention of the Complications of Bleeding Disorders through Hemophilia Treatment Centers. This program addresses the ''Healthy People 2010'' focus areas of Access to Quality Health-Services, Disability and Secondary Conditions, HIV, and Immunization and Infectious Diseases. For more information on ''Healthy People 2010'' visit the internet site: http://www.health.gov/healthypeople.

The purpose of the hemophilia complications prevention cooperative agreement program is to assist in: (1) Providing a regional network of comprehensive prevention services through hemophilia treatment centers to persons with hemophilia and related disorders including women with bleeding disorders to prevent complications through assessment, surveillance, outreach, education, consultation, and management; (2) maintaining a prevention evaluation network to assess the efficacy of these prevention services; (3) participating in blood safety monitoring and surveillance efforts; and (4) collaborating with lay organizations to deliver consistent prevention messages aimed at preventing complications.

B. Eligible Applicants

Assistance will be provided only to hemophilia regional core centers, defined as public or private non-profit entities that provide regional services and support to a network of comprehensive hemophilia treatment centers (HTCs) within their regional catchment area. A HTC is defined as a specialty, prevention, diagnostic and treatment program with the goal of providing family-centered, state-of-the-art medical and psycho-social evaluation and care, dental, education, genetic, research, and support services for individuals and families with bleeding disorders.

Note: Title 2 of the United States Code, chapter 26, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $6,700,000 is available in FY 2001 to fund approximately 12 awards. It is expected that the average award will be $400,000, ranging from $200,000 to $875,000. It is expected that the awards will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. The funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preference

One award per region will be made to support the core center and other collaborating HTC performance sites in the region. For the purposes of these awards, regional breakdowns are as follows: Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; Region II: New Jersey, New York, Puerto Rico, and the U.S. Virgin Islands; Region III: Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia; Region IV-North: Kentucky, North Carolina, South Carolina, and Tennessee; Region IV-South: Alabama, Florida, Georgia, and Mississippi; Region V-East: Indiana, Michigan, and Ohio; Region V-West: Illinois, Minnesota, North Dakota, South Dakota, and Wisconsin; Region VI: Arkansas, Louisiana, Oklahoma, and Texas; Region VII: Iowa, Kansas, Missouri, and Nebraska; Region VIII:

Arizona, Colorado, Montana, New Mexico, Utah, and Wyoming; Region IX: California, Hawaii, Nevada, American Samoa, Northern Mariana Islands and Guam; Region X: Alaska, Idaho, Oregon, and Washington.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. On the regional level, the regional core center should:

(1) Develop appropriate management and evaluation systems to ensure that HTCs within the region implement the activities of this program appropriately and comply with federal and other required regulations. Conduct program assessments, site visits, assist HTCs with problem solving, assess local needs and recommend support for subcontracts to a network of centers in their region, and provide technical assistance when needed;

(2) Serve as liaison with CDC to provide input and feedback regarding national programs, implementation and evaluation. Coordinate CDC consultation when necessary;

(3) Facilitate communication within the region to foster opportunities to promote the exchange of information among health care providers;

(4) Increase awareness about the prevention of complications by promoting prevention services and programs within the region among community-based organizations (CBOs) and persons with bleeding disorders to identify new patients eligible for care, and to reestablish contact with patients lost to follow-up;

(5) Facilitate collaborative program development, planning, and communication between the region's HTCs and chapter or other consumer organizations to promote referral to the centers and provide access to educational and support services;

(6) Encourage expansion of HTC populations to include services to women with bleeding disorders and develop programs to identify under served populations including minorities and women;

(7) Coordinate development of HTC program plans, goals and objectives, and progress tracking and reporting for HTCs in the region;

(8) Facilitate access to appropriate training resources and opportunities to orient new HTC personnel, and enhance the skills of current HTC personnel to increase the quality of prevention services; and

(9) Coordinate, annually or bi-annually, with CDC participation, a regional meeting for HTCs and CBOs or ad hoc consumer consultation committees to share information and plan programs. Regional meetings may be jointly sponsored with other regions that have similar needs.

b. The regional core centers should develop and coordinate a plan where HTCs within the region would:

(1) Provide comprehensive prevention services to persons with bleeding disorders directed at attaining and measuring specific outcomes to reduce complications by using a multi-disciplinary team approach. HTC services are provided by a multi-disciplinary team. The core team includes: adult or pediatric hematologist, nurse coordinator, social worker and physical therapist. HTC services include medical and psycho-social assessment and monitoring, home therapy teaching and monitoring, infectious disease management, physical therapy, dental services, rehabilitation and support services. The HTC team works closely with other specialists and local health care providers to meet specific needs of persons with bleeding disorders to increase quality of life from birth throughout life, and assist individuals with the prevention and management of complications.

(2) Assess unmet needs and under served populations, including minorities and women, participate in outreach efforts to identify patients who can benefit from prevention services, and encourage patient participation in HTCs;

(3) Develop mechanisms to deliver prevention programs, messages, and materials to persons with hemophilia and their family members;

(4) Participate in CDC surveillance efforts (including the Universal Data Collection Program, Creutz-feldt Jakob Disease (CJD) Program, investigations of sero-conversions and suspected bloodborne agents) and other data collection and surveillance efforts by complying with federal and other required regulations and offering programs to all active eligible patients;

(5) Advise CDC of any patients who have become infected with HIV or hepatitis A, B, or C viruses (HAV, HBV, or HCV), possibly as a result of contaminated clotting factor concentrates;

(6) Obtain approval from local Institutional Review Board (IRB) for all protocols. Obtain appropriate assurances as required by Office of Human Research Protections (OHRP), OPHS, DHHS. Develop and maintain strict policies on protecting the confidentiality of patients, and ensure the security of databases and other records through controlled access to areas with confidential information, database password protection, locking file cabinets, and other security features; and

(7) Establish mechanism for consumer input and involvement in planning, implementing, and assessing HTC prevention activities that include education and outreach by collaborating with local community based hemophilia consumer organizations, or ad hoc consumer consultation committee.

2. CDC Activities

a. Assist in determining priority areas and long-term goals for prevention of complications of hemophilia as a collaborative effort by encouraging regional core centers to seek input from providers, CBOs and consumer representatives.

b. Provide consultation, scientific and technical assistance in planning, implementing, and evaluating activities to prevent the complications of hemophilia by using surveillance data to develop interventions and assess their effectiveness, coordinate the development, implementation, and evaluation of prevention intervention protocols.

c. Assist in the development of research protocols for IRB review by CDC and all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

d. Assist in the analysis and reporting of aggregate clinical outcomes data, coordinate and consolidate the transfer of tabulated data, analyses, and conclusions among participating HTCs.

e. Provide follow-up and technical assistance to HTCs implementing changes or recommendations resulting from program evaluations, assessments, or activities required to meet required federal and other regulations;

f. Provide information and feedback regularly via teleconference, email and in person meetings to regional coordinators and regional directors serving as liaisons to CDC and their respective regional HTCs.

g. Provide technical assistance and coordinate routine annual testing of patient samples for HAV, HBV, HCV, and reporting of results back to HTCs. Provide technical assistance to designated laboratory for permanent storage of blood samples.

h. Collaborate with HTCs and appropriate State or local health departments to investigate any suspected HIV, HAV, HBV, HCV seroconversions or other reported potential bloodborne agents.

i. Collaborate with Regional Coordinators, National Hemophilia Foundation, HTC personnel, consumers, and designated training centers to develop and provide training resources for providers and consumers.

j. Disseminate current information related to the development, implementation, and evaluation of these regional programs to the funded HTCs and the public as necessary and as requested.

k. Facilitate collaborative research efforts among HTCs to enhance the quality of life of persons with bleeding disorders.

E. Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one-inch margins, and unreduced font.

Budgetary Information

Include all major cost items for implementing the proposed program for twelve months. Submit line-item descriptive justifications for personnel, travel, supplies, and other services on Standard Form 424A, ''Budget Information'', provided with PHS 5161–1 (Revised 6/99). Separate budgets should be submitted for the regional core center and each HTC performance site that is included in the regional application, plus a totaled budget request for the region.

If the regional core center also serves as an HTC performance site providing prevention services to patients, provide a separate budget for related costs. For each HTC performance site request, include the name and address of the person and organization to receive the contract, as well as a detailed line-item descriptive justification.

Each applicant must provide a brief listing of budgetary requests included in its FY 2001 HRSA HTC comprehensive care grant application, specifying personnel, service, and other costs that are anticipated to be funded by HRSA for the twelve-month period. A budget guidance and preferred format will be included in the application kit.

Supporting Materials

1. Letters of agreement from all contracting or voluntary collaborating HTCs in region detailing specific roles and responsibilities of each party.

2. Letters of support from local consumer organizations representing areas coinciding with HTCs included in application. If areas do not have existing consumer organizations, include letters of support from local consumer leaders indicating their willingness to collaborate in prevention programming.

3. Copies of policies protecting the confidentiality of persons with hemophilia and the security of patient information and records. A copy of the local IRB approval letter, copy of consent form, and assurance information (multiple project assurance number, single project assurance approval letter or signed collaborative inter-institutional amendment) for the regional core center and each participating HTC.

F. Submission and Deadline

Submit the original and three copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available in the application kit and at the following Internet address: www.cdc.gov/od/pgo/forminfo.htm. On or before June 15, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group.

(Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Background and need (20 Points Total)

a. The extent to which the applicant describes the regional hemophilia population in terms of known morbidity, demographics, sources of care, and experience in data collection and surveillance. (10 points)

b. The extent to which the applicant identifies significant problems experienced by the hemophilia community, and how this regional network of HTCs can appropriately address the issues of the target community. (10 points)

2. Goals and Objectives (20 Points)

The extent to which the applicant has included goals which are relevant to the purpose of the proposal and feasible to be accomplished during the project period, and the extent to which these are specific and measurable. The extent to which the applicant has included objectives which are feasible to be accomplished during the budget period, and which address all activities necessary to accomplish the purpose of the proposal. The extent to which the objectives are specific, time-phased, and measurable.

3. Methods and Activities (50 Points Total)

The extent to which the applicant provides:

a. A detailed description of proposed activities and methods used to accomplish each objective within the time frame indicated. (15 points)

b. A description of how proposed methods will provide valid and reliable outcomes needed to accomplish proposed objectives. (10 points)

c. A description of the limitations and anticipated implementation barriers of the principal methods, and how these problems are expected to be resolved. (15 points)

d. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; and (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (10 points)

4. Program Management and Evaluation (10 Points)

The extent to which the management systems and specific plans of evaluation

were used to ensure sufficient progress towards achievement of proposed goals and objectives are discussed. The extent to how HTC performance sites were selected is discussed. The extent that the types, frequency, and methods of evaluation were used are described. The extent to how the above information will be used to improve or redirect program operations is explained.

5. Budget (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

6. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects:

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. annual progress report, no more than 90 days after the end of the budget period;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist with a copy to the Project Officer identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a)(42 U.S.C. 241 (a)) and 317(k)(2)(42 U.S.C. 247b(k)(2)) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Merlin Williams, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Mailstop K–75, Atlanta, GA 30341–4146, Telephone number: 770–488–2765, E-mail: mqw6@cdc.gov.

For program technical assistance, contact: Sally O. Crudder, Director, Hemophilia Treatment Center Program, Hematologic Diseases Branch, National Center for Infectious Diseases, Centers for Diseases Control and Prevention, 1600 Clifton Road, Mailstop E–64, Atlanta, GA 30333, Ph: 404–371–5270 or 5903, Email: sic4@cdc.gov

Dated: April 30, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11217 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01071]

National Health Promotion and Information Center for People With Paralysis; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program to establish a National Health Promotion and Information Center (NHPIC) for People with Paralysis.

The purpose of this cooperative agreement is to develop and expand national efforts for the prevention of secondary conditions and complications, and to improve outcomes and the quality of life for people living with paralysis from multiple causes.

B. Eligible Applicant

Assistance will only be provided to the Christopher Reeve Paralysis Foundation. No other applications are solicited. FY 2001 Federal appropriations specifically direct CDC to award funds to this organization.

C. Availability of Funds

Approximately $1,568,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12 month budget period within a one year project period.

D. Where To Obtain Additional Information

This and other CDC announcements may be found on the CDC home page on the Internet at: http://www.cdc.gov.

To obtain business management technical assistance may be obtained from: Nancy Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Mailstop E–13, Atlanta, Georgia 30341–4146, Telephone: (770) 488–2710, E-Mail address: nfp6@cdc.gov.

General program assistance can be obtained from: Joseph B. Smith, Senior Project Officer, Disability and Health Branch, National Center for Birth Defects and Developmental Disabilities, Disability and Health Branch, 4770 Buford Highway, Building 101, Mailstop F–35, Atlanta, Georgia 30341, Telephone: (770) 488–7082, E-Mail address: jos4@cdc.gov.

Dated: April 30, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11216 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01072]

Public Health Laboratory Biomonitoring Planning Grant; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a grant program to promote planning for the development, implementation, and expansion of State-

based biomonitoring programs to help prevent disease resulting from exposure to toxic substances. This program addresses ''Healthy People 2010'' focus areas of Environmental Health and Public Health Infrastructure.

In this announcement, the term ''biomonitoring'' refers to the assessment of exposure to toxic substances in people by the laboratory measurement of these substances (or their metabolites) in specimens from humans such as blood, urine and saliva. Biomonitoring measurements assess the concentration of the toxic substance in people and are often referred to as ''internal dose'' measurements.

Biomonitoring measurements can assess the exposure of a single person or by aggregating data of many people, a population. Biomonitoring measurements complement environmental measurements of toxic substances in air, water, food, soil and dust. Specific uses of biomonitoring measurements in public health include:

1. To measure the prevalence of elevated levels of toxic substances in a population group (e.g., the prevalence of blood lead levels ≥ 10 μg/dL in children living in an inner-city environment);

2. To determine levels of exposure in population groups who may be at increased risk of exposure;

3. To provide levels of human exposure in studies examining the relationship between exposure to a toxic substance (or toxic substances) and adverse health effects;

4. To determine whether levels of toxic substances are higher in potentially more vulnerable population groups such as children, the elderly, or women of childbearing age than in the general population;

5. To track over time, trends in the levels of exposure of a population group to specific toxic substances (e.g., levels of exposure to mercury in a population who consume fish as a major portion of their diet);

6. To assess the effectiveness of public health efforts to reduce the exposure of specific populations to toxic substances.

For biomonitoring measurements to be effective in addressing these public health needs, they should be accurate, precise, sensitive, specific, rugged, and have adequate throughput to complete measurements in a timely manner. For more information about the concept of biomonitoring, please see the references at the website: http://www.cdc.gov/nceh/publications/at-a-glance/Biomonitor/Default.htm

To effectively apply biomonitoring measurements, laboratories must interface with other public health partners, including physicians, epidemiologists, and health professionals at the State and local levels, in academic centers, and in communities. In addition, collaboration with other public health laboratories can be beneficial.

B. Eligible Applicants

Applications may be submitted only by public health laboratories of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

In some States, territories, and protectorates, environmental health testing and biomonitoring responsibilities are under the jurisdiction of an agency other than the Public Health Laboratory. In those cases, application for funding under this program announcement will be accepted from other agencies, provided that the Public Health Laboratory in that State, territory, or protectorate is in agreement and submits written documentation of such agreement as part of the application.

Note: Only one application per State, territory, or protectorate may be submitted.

Eligible laboratories may form consortia. Applications from consortia must provide documentation from each member of the consortium of their willingness to collaborate and pool data from each site in their proposed consortium. One laboratory of the consortium must be identified as the designated lead on a multi-site application. The lead laboratory must submit the application and administer the award.

For interested applicants, a telephone conference call for pre-application technical assistance will be held on Thursday, May 24, 2001, from 1:30 p.m. to 3:30 p.m., Eastern Standard Time. The bridge number for the conference call is 1–800–713–1971, and the pass code is 509361. For further information, please contact Charles Buxton at (770) 488–4160.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

C. Availability of Funds

Approximately $5,000,000 is available in FY 2001 to fund approximately 25 awards. It is expected that the average award will be $200,000, ranging from $100,000 to $300,000. It is expected that the awards will begin on or about September 1, 2001, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may be used to develop a biomonitoring plan, to conduct surveys, hire consultants, hire and train personnel, conduct needs assessments and evaluations, conduct travel related to this project, pay for relevant and appropriate services, and perform other activities that enhance the recipient's ability to develop a biomonitoring program plan. Project funds may not be used for the development of testing methods or programs for environmental samples.

Funds may not be used to support activities which would otherwise be under the jurisdiction of Superfund and/or the Agency for Toxic Substances and Disease Registry. However, because toxicants from Superfund sites contribute to the total of human exposure sources, funds may be used for planning purposes to examine the interface between Superfund activities and public health laboratory biomonitoring programs.

Future Plans: CDC anticipates that during the second year of this grant program, a Cooperative Agreement program announcement will be issued with the intent to provide in FY 2003, the funding for approximately five public health laboratories at an anticipated level of $1,000,000 per laboratory, per year (for up to five years) to implement biomonitoring programs.

Eligibility for these Cooperative Agreement funds will be limited to those laboratories that have received funds under this grant program. Criteria for funding under the future Cooperative Agreement Program will include: the quality of the plan developed during this planning grant period; the degree to which the applicant demonstrates cooperation and integration with other public health resources (e.g., epidemiologists, schools of public health, medicine and science); and the assessment of the need for biomonitoring.

CDC anticipates that the awards during the Cooperative Agreement phase will be made with the goal of achieving geographic distribution and

balance among laboratories which serve people living in diverse settings such as urban, rural, agricultural, and industrial communities.

Funding Preferences

Preference for awards will be given to ensure geographic diversity.

D. Program Requirements

The program areas of interest focus on the development of a plan by which recipients will be able to achieve the following by the end of the two-year project period:

1. Assess the need for biomonitoring within the community served by the applicant. The laboratory should collaborate with other public health partners, including public health physicians and epidemiologists to make this needs assessment. Special consideration should be given to evaluating exposures in racial and ethnic population groups that may be at increased risk from exposure.

2. Develop a plan for implementing or expanding biomonitoring capacity in the public health laboratory. This plan should:

a. Define specific, measurable, and time-framed goals and objectives.

b. Inventory existing biomonitoring methods available to the applicant and specify for each method: toxic substance(s) measured, method of measurement (e.g., GC–MS, atomic absorption), current instrumentation used, the limit of detection for each analyte (and how the limit of detection was determined), known interferences, description of method's quality control, any external proficiency testing program in which the laboratory currently participates for the method, an approximate method sample throughput per day, and approximate number of human specimens analyzed in the past 12 months. (If an applicant is not currently performing biomonitoring testing, but anticipates this need, these needs should be stated as outlined in 2.c.)

c. Identify new biomonitoring capacity needed to address additional toxic substances or expand current methods. Emphasize in this section how the new biomonitoring capacity will be used to address needs identified in 1. As part of this explanation, specify the collaborations with public health partners (State and local health officials, schools of public health, academic centers, community groups, etc.) who will work with the lab to use biomonitoring data to help address these public health needs.

d. For each new biomonitoring method needed, describe additional requirements for personnel, instrumentation, and facilities modification or expansion. Provide cost estimates for facilities modification or expansion.

e. Describe requirements for local Institution Review Board (IRB) or Human Subjects review and approval.

f. Discuss requirements for compliance with the Clinical Laboratory Amendments (CLIA) 1988.

3. Develop an evaluation plan to assess progress in expanding the laboratory's biomonitoring capacity and to assess the impact of biomonitoring measurements on addressing the identified public health needs within the State or community.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria Sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. Please follow the directions indicated in the application kit.

F. Submission and Deadline

Submit the original and five copies of PHS 398 (OMB Number 0925–0001) Forms are in the application kit.

On or before July 2, 2001, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the Objective Review Panel. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be reviewed, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the Problem (30 Percent)

The extent to which the applicant understands the need for planning a biomonitoring program and the purpose of conducting exposure assessment by measurement of human biological samples (blood, hair, urine, saliva) to identify internal human dose from contact with hazardous environmental chemicals.

a. The analytical challenges associated with identifying extent of exposure based on data obtained from human samples, especially challenges presented by the differences in physiological makeup of individuals, specimen collection and pharmacokinetic and pharmacodynamic factors.

b. The problems related to estimating or extrapolating ''internal dose'' from ''external dose'' data, and the value of biomonitoring through direct measurement of samples from humans to provide more meaningful information.

2. Goals and Objectives (20 Percent)

The extent to which the applicant clearly states planning goals and objectives which are consistent with the Purpose and Program Requirements sections as presented in this announcement, and the degree to which the goals and objectives reflect an understanding of the need to reach beyond the laboratory to achieve balanced input from the broader public health community in preparing the biomonitoring plan.

3. Description of Program and Methodology (20 Percent)

Describe in detail how the biomonitoring plan will be developed, what sources of information and expertise will be utilized in establishing the plan. Describe a phased time line of activities leading to completion of the plan, and anticipated uses of the plan.

4. Collaborative Efforts (15 Percent)

Describe anticipated collaborative efforts related to this planning among the applicant laboratory, other components of the public health structure of the community, including epidemiologists, environmental health professionals, other state or local health agencies, health services providers, and academic institutions such as schools of public health, medicine, university departments of chemistry or biochemistry, community and citizens groups, and other interested parties. Letters of support from anticipated collaborators should be provided as attachments to the application package.

5. Evaluation Plan (10 Percent)

The extent to which the applicant describes how progress towards

achieving the applicant's goals and objectives will be evaluated, and how, once the plan has been completed, its impact on environmental health and human exposure issues in the applicant's community will be assessed.

6. Staffing, Management System, and Facilities (5 Percent)

The extent to which the applicant describes the staff available or anticipated to conduct the planning activities and how they will be managed. The applicant must describe the organizational setting and facilities available to support the development of the plan, to accumulate and analyze data and other information related to planning. Applicants should also describe planning to provide IRB review when biomonitoring programs are implemented and discuss the impact of the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) on their plan.

7. Budget (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

H. Other Requirements

Provide CDC with the original plus two copies of:

1. Annual progress reports, no more than 30 days after the end of the report period;
2. Financial status report, no more than 90 days after the end of the budget period;
3. Final financial report and performance report, no more than 90 days after the end of the project period; and
4. Completed planning document, no later than the end of the third quarter of year two.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–7 Executive Order 12372 Review
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 317 of the Public Health Service Act, 42 U.S.C. sections 241 and 247b, as amended. The catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sonia V. Rowell, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, (MS E–13), Atlanta, GA 30341–4146, Telephone: (770) 488–2724, E-mail address: svp1@cdc.gov.

For program technical assistance contact: Dayton T. Miller, Ph.D., National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, NE (MS F–18), Atlanta, GA 30341–3724, Telephone: (770) 488–4452, E-mail address: dtm1@cdc.gov.

Dated: April 30, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–11215 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on HIV and STD Prevention: Meeting

In accordance with section l0(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on HIV and STD Prevention.

Times and Dates: 8:30 a.m.–5 p.m., June 4, 2001. Place: Holiday Inn, 130 Clairmont Ave, Decatur, Georgia 30030.

Place: 8:30 a.m.–5 p.m., June 5, 2001. Corporate Square Office Park, Corporate Square Boulevard, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV and STD prevention efforts including maintaining surveillance of HIV infection, AIDS, and STDs, the epidemiologic and laboratory study of HIV/AIDS and STDs, information/education and risk reduction activities designed to prevent the spread of HIV and STDs, and other preventive measures that become available.

Matters to be Discussed: Agenda items include issues pertaining to (1) HIV prevention-care interface (2) HRSA–CDC linkages in terms of preventing STDs other than HIV (3) Syphilis elimination. Agenda items are subject to change as priorities dictate.

For Further Information Contact: Paulette Ford, Committee Management Analyst, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, Mailstop E–07, Atlanta, Georgia 30333. Telephone 404/639–8008, fax 404/639–3125, e-mail pbf7@cdc.gov.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 30, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–11218 Filed 5–3–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0185]

Draft Guidance for Industry on Providing Regulatory Submissions in Electronic Format—Postmarketing Expedited Safety Reports; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Postmarketing Expedited Safety Reports.'' This is one in a series of guidance documents on providing regulatory submissions to FDA in electronic format. This specific guidance discusses issues related to the electronic submission of postmarketing expedited safety reports for drug products marketed for human use with new drug applications (NDAs) and abbreviated new drug applications (ANDAs), prescription drug products marketed for human use without an approved NDA or ANDA, and therapeutic biological products marketed for human use with biologic license applications (BLAs). This guidance does not apply to vaccines. The submission of these reports in an electronic format will significantly improve the agency's efficiency in processing, archiving, and reviewing the reports.

DATES: Submit written comments on the draft guidance by July 3, 2001. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Deborah Yaplee, Center for Drug Evaluation and Research (HFD–400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3237, aersesub@cder.fda.gov; or

Michael Fauntleroy, Center for Biologics Evaluation and Research (HFM–588), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5101, Fauntleroy@cber.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Guidance

FDA is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Postmarketing Expedited Safety Reports.'' FDA has cooperated with industry associations and the regulatory authorities of certain other nations to promote international harmonization of regulatory requirements. Much of this effort has been coordinated through the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). Under the auspices of the ICH, standards for electronic submission of safety information for human drug and biological products have been developed, including a standard medical terminology for regulatory purposes, ICH M1; electronic standards for the transfer of regulatory information, ICH M2; and standardized data elements for transmission of individual case safety reports, ICH E2B and E2BM formats.

This draft guidance is intended to provide guidance to industry regarding submission of postmarketing expedited safety reports to FDA electronically using the standards established by the ICH. FDA believes the changes recommended by the ICH will result in more effective and efficient safety reporting to regulatory authorities worldwide.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The draft guidance represents the agency's current thinking on providing postmarketing expedited safety reports in an electronic format. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Paperwork Reduction Act of 1995

This notice contains no new collections of information. The information requested for marketed human drug and biological products is already covered by the collection of information on postmarketing safety reporting regulations (21 CFR 310.305, 314.80, and 600.80) submitted to the Office of Management and Budget (OMB) for review and clearance. This notice merely provides applicants with an alternative mechanism for submitting postmarketing expedited safety reports to the agency.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB approved the information collection for MedWatch—The FDA Medical Products Reporting Program (Forms FDA 3500 and FDA 3500A) and assigned it OMB control number 0910–0291. The approval for 0910–0291 expires on April 30, 2003.

OMB also approved the information collection for adverse experience reporting for marketed drugs and licensed biological products and assigned them OMB control numbers 0910–0230 and 0910–0308, respectively. The approval for 0910–0230 expires on May 31, 2002, and the approval for 0910–0308 expires on April 30, 2003.

IV. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm or at http://www.fda.gov/cber/guidelines.htm.

Dated: April 27, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–11235 Filed 5–3–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for the opportunity for public comment on proposed data collection projects [Section 3506 (c) (2) (A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13], the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To

request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on (a) whether the agency needs to collect the proposed information to properly perform its functions and whether the information has any practical utility; (b) whether the agency's estimate of the burden of the proposed collection of information is accurate; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information for respondents (*e.g.,* by using automated collection techniques or other forms of information technology).

Proposed Project: Ryan White CARE Act Dental Reimbursement Program (OMB No. 0915–0151)—Revision

The Dental Reimbursement Program (DRP) under Part F of the Ryan White CARE Act offers grants to accredited dental schools and programs that provide non-reimbursed oral health care to patients with HIV disease. The Ryan White CARE Act Amendments of 2000 expanded eligibility of this program to accredited schools of dental hygiene, in addition to previously funded schools of dentistry and post-doctoral dental education programs.

HRSA requests a revision to the DRP Application that schools and programs use to apply for funding of non-reimbursed costs incurred in providing oral health care to patients with HIV. Awards are authorized under section 776(b) of the Public Health Service Act (42 U.S.C. 294n). The 2001 DRP Application is intended to collect data in three different areas: program information, patient demographics and services, and reimbursement and funding. It also requests applicants to provide narrative descriptions of their services and facilities, as well as their links and collaboration with community-based providers of oral health services.

The primary purpose of collecting this information annually, as part of the DRP Application, is to verify eligibility and determine the reimbursement amount each applicant should receive. This information also allows HRSA to learn about (1) the extent of the involvement of dental schools and programs in treating patients with HIV, (2) the number and characteristics of clients who receive CARE Act-supported oral health services, (3) the types and frequency of the provision of these services, (4) the non-reimbursed costs of oral health care provided to patients with HIV, and (5) how applicants intend to use DRP funds once they are received. In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, information collected in the DRP Application is critical for HRSA, State and local grantees, and individual providers, to help assess the status of existing HIV-related health service delivery systems.

The reporting burden for reviewing the DRP Application Instructions and completing the Application Form is estimated as:

Collection	Number of responsents	Hours per application	Total burden hours
Reimbursement Request	125	20	2500

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 30, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–11236 Filed 5–3–01; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK): Opportunity for Cooperative Research and Development Agreements (CRADAs) To Perform Intervention Studies To Preserve Pancreatic Beta Cell Function and Prevent Type 1 Diabetes

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) of the National Institutes of Health (NIH) is seeking proposals in the form of capability statements from potential collaborators for a Cooperative Research and Development Agreement (CRADA) to perform intervention studies to preserve pancreatic beta cell function and prevent type 1 diabetes. The clinical research will execute pilot and expanded studies of new agents to prevent or ameliorate type 1 diabetes in populations screened for or enrolled in these studies.

Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. 3710; and Executive Order 12591 of April 10, 1987, as amended by the National Technology Transfer and Advancement Act of 1995), the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks a Cooperative Research and Development Agreement (CRADA) with a pharmaceutical or biotechnology company to perform intervention studies to preserve pancreatic beta cell function and prevent type 1 diabetes.

The potential Collaborator(s) capability statement should provide proof of expertise in the design and implementation of new intervention studies of Type 1 Diabetes and should include the scientific rationale for the study proposed, the population to be studied, eligibility and exclusion criteria for the study, possible strategies for patient recruitment and data collection methods, primary and secondary endpoints to be determined, and a discussion of the sample size required given associated assumptions. The scientific rationale should include a discussion of what is the current ''state-of-the-art'', future opportunities, and obstacles in the prevention of type 1 diabetes, and discuss how the field may best be moved forward.

DATES: Only written CRADA capability statements received by the NIDDK on or before July 1, 2001 will be considered; confidential information must be clearly labeled. Potential Collaborators may be invited to meet with the Selection Committee at the Collaborator's expense to provide additional information. The Institute may issue an additional notice of CRADA opportunity. This notice is directed toward companies with resources to support collaborations.

FOR ADDITIONAL INFORMATION AND QUESTIONS: Capability statements should be submitted to Dr. Michael W. Edwards, Office of Technology Development, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, BSA Building, Suite 350 MSC 2690, 9190 Rockville Pike, Bethesda, MD 20814–3800; Tel: 301/496–7778, Fax: 301/402–0535; Email: mels@nih.gov.

SUPPLEMENTARY INFORMATION: A CRADA is an agreement designed to enable certain collaborations between Government laboratories and non-Government laboratories. It is not a grant, and is not a contract for the procurement of goods/services. The NIDDK is prohibited from transferring funds to a CRADA collaborator. Under a CRADA, NIDDK can contribute facilities, staff, materials, and expertise to the effort. The collaborator typically contributes facilities, staff, materials, expertise, and funding to the collaboration. The CRADA collaborator receives an exclusive option to negotiate an exclusive or non-exclusive license to Government intellectual property rights arising under the CRADA in a pre-determined field of use and may qualify as a co-inventor of new technology developed under the CRADA.

Study Organization: The Type 1 Diabetes TrialNet, or TrialNet, will be a national network of cooperative clinical research groups, consisting of a consortia of clinical centers and core support facilities, whose aim is to recruit patients and to support studies that may eventually result in an improved understanding of type 1 diabetes and the prevention of the disease.

Applicants must include a description of investigators and staff with experience and expertise to collaborate in multicenter clinical trials and Phase II and Phase III studies to assess interventions for preventing or ameliorating type 1 diabetes. Applicants should describe their ability to lead clinical trials that could be performed using Type 1 Diabetes TrialNet resources. Applicants must give evidence of their ability and experience to conduct multicenter clinical trials, with prediabetic or diabetic subjects. If applicants have particular expertise and accomplishments in recruiting individuals from minority groups, these should be described.

Applicants should provide a detailed description of the design of the proposed study, including what eligibility, baseline, and follow-up tests are to be done, what surrogate markers and endpoints will be examined, and the duration of follow-up. Examples of data forms and questionnaires proposed should be given. The process for biologic sample collection, storage and handling needs must be included. A description of the laboratory tests that are needed with appropriate methods for performing them should be provided, as well as other core facilities and interactions with core facilities that are needed. Also included should be the methods that would be used to assure privacy and maintain confidentiality of data. Sample size needs and the criteria and calculations used to estimate sample sizes should be detailed.

Capability Statements: A Selection Committee will utilize the information provided in the ''Collaborator Capability Statements'' received in response to this announcement to help in its deliberations. It is the intention of the NIDDK that all qualified Collaborators have the opportunity to provide information to the Selection Committee through their capability statements. The Capability Statement should not exceed 10 pages and should address the following selection criteria:

(1) The statement should provide specific details of the method to be utilized in the investigation of promising new approaches to prevent or ameliorate type 1 diabetes.

(2) The statement should include a detailed plan demonstrating the ability to provide sufficient quantities of the agent in a timely manner for the duration of the study.

(3) The statement may include outcome measures of interest to the Collaborator. The specifics of the proposed outcome measures and the proposed support should include but not be limited to the following: Promising new approaches to prevent or ameliorate type 1 diabetes, specific funding commitment to support the advancement of scientific research, Personnel, services, facilities, equipment, or other resources that would contribute to the conduct of the commercial development.

(4) The statement must address willingness to promptly publish research results and ability to be bound by PHS intellectual property policies (see CRADA: http://ott.od.nih.gov/newpages/crada.pdf).

Dated: April 26, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–11189 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Clinical Trials Review Committee.

Date: June 17–19, 2001.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Joyce A. Hunter, Ph.D, Review Branch, Room 7192, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892–7924, 301/435–0277.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 27, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11182 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Program Project Review Committee Program Project Review Committee.

Date: June 21, 2001.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Jeffrey H Hurst, Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892, (301) 435–0303, hurstj@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 27, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11183 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: June 14, 2001.

Open: 8:30 am to 2 p.m.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: 2 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Robert Carlsen, Director, Division of Extramural Affairs, Nat. Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 7100, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0260.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 26, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11187 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel—Mentored Research Career Development Awards (K23, K25, and K08) and Midcareer Awards in Patient-Oriented Research (K24).

Date: May 31–June 1, 2001.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mariott Wardman Park Hotel, 2660 Woodley Road N.W., Washington, DC 20008.

Contact Person: Diane M. Reid, MD, Review Branch, Room 7182, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 26, 2001.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11188 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: June 6–8, 2001.

Closed: June 6, 2001, 8:00 pm to 9:30 pm.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27709.

Open: June 7, 2001, 8:30 am to 5:00 pm.

Agenda: An overview of the organization and conduct of research in the Laboratory of Molecular Genetics.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: June 8, 2001, 8:30 am to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Paul Nettesheim, MD, DMS, Acting Scientific Director, Office of the Scientific Director, Nat. Institute of Environmental Health Sciences, National Institutes of Health, Mail Drop A2–09, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, 919/541–3205.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: April 26, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11184 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory allergy and Infectious Diseases Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended.The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: June 4–5, 2001.

Open: June 4, 2001, 1:00 pm to 3:30 pm.

Agenda: The meeting of the full Council will be open to the public for general discussion and program presentations.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: June 4, 2001, 3:30 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Acquired Immunodeficiency Syndrome Subcommittee.

Date: June 4–5, 2001.

Closed: June 4, 2001, 8:30 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: June 5, 2001, 8:30 am to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council—Allergy, Immunology and Transplantation Subcommittee.

Date: June 4, 2001.

Closed: June 4, 2001, 8:30 am to 10:00 am.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Open: June 4, 2001, 10:00 am to 1:00 pm.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Microbiology and Infectious Diseases Subcommittee.

Date: June 4–5, 2001.

Closed: June 4, 2001, 8:30 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Open: June 5, 2001, 8:30 am to adjournment.

Agenda: Open program advisory discussions and presentations.

Place: Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11185 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel ZDK1 GRB–7 C1.

Date: May 24, 2001.

Time: 11:00 am to 12:30 pm.

Agenda: To review and evaluate contract proposals.

Place: Democracy Plaza II, 6707 Democracy Blvd., Rm #754, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

(Catalog of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 26, 2001.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–11186 Filed 5–3–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–06]

Notice of Proposed Information Collection for Public Comment: 2002 American Housing Survey—Metropolitan Sample

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 3, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sepanik at (202) 708–1060, Ext. 5887, or Jane M. Kneessi, Bureau of the Census, HHES Division, Washington, DC 20233, (301) 457–3235. (The telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: 2002 American Housing Survey—Metropolitan Sample.

OMB Control Number: 2528–0017.

Description of the need for the information and proposed use: The 2002 American Housing Survey Metropolitan Sample (AHS–MS) provides a periodic measure of the size and composition of the housing inventory in selected metropolitan areas. Title 12, United States Code, Sections 1701Z–1, 1701Z–2(g), and 1710Z–10a mandates the collection of this information.

The 2002 survey is similar to previous AHS–MS surveys and collects data on subjects such as the amount and types of changes in the inventory, the physical condition of the inventory, the characteristics of the occupants, the persons eligible for and beneficiaries of assisted housing by race and ethnicity, and the number and characteristics of vacancies.

Policy analysts, program managers, budget analysts, and Congressional staff use AHS data to advise executive and legislative branches about housing conditions and the suitability of public policy initiatives. Academic researchers and private organizations also use AHS data in efforts of specific interest and concern to their respective communities.

The Department of Housing and Urban Development (HUD) needs the AHS data for two important uses:

1. With the data, policy analysts can monitor the interaction among housing needs, demand and supply, as well as changes in housing conditions and costs, to aid in the development of housing policies and the design of housing programs appropriate for different target groups, such as first-time home buyers and the elderly.

2. With the data, HUD can evaluate, monitor, and design HUD programs to improve efficiency and effectiveness.

Agency Form Numbers: Computerized Versions of AHS–62 and AHS–63.

Members of affected public: Households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents: 61,000.

Estimate Responses per Respondent: 1 every six years.

Time per respondent: 34 minutes.

Total hours to respond: 34,567.

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 *et seq.*

Dated: April 25, 2001.

Lawrence L. Thompson,

General Deputy Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 01–11180 Filed 5–3–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,*

No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 26, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–11025 Filed 5–3–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment for Sherburne National Wildlife Refuge, in Central Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for Sherburne National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) and its implementing regulations, for the Sherburne National Wildlife Refuge located in Sherburne County, Minnesota. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*), to achieve the following:

(1) Advise other agencies and the public our intentions, and

(2) Obtain additional suggestions and information on the scope of alternatives and impacts to be considered.

Open house style meetings and focus group meetings will also be held throughout the scoping phase of the CCP development process. In addition, the Service is inviting comments on archaeological, historic, and traditional cultural sites in support of the National Historic Preservation Act.

Special mailings, newspaper articles, and other media announcements will inform people of the opportunities for written input throughout the CCP planning process.

DATES: The Service is soliciting written comments and will hold two public open house scoping meetings in the School House on the Sherburne National Wildlife Refuge, 17076 293rd Avenue, Zimmerman, Minnesota, on the following dates: May 29, 2001 10:00 a.m.–4:30 p.m., May 30, 2001 6:00 p.m.–9:00 p.m.

ADDRESSES: Address comments to Refuge Manager, Sherburne National Wildlife Refuge, 17076 293rd Avenue, Zimmerman, MN 56346. Comments may also be submitted electronically at R3RW_SHB@fws.gov.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Sherburne National Wildlife Refuge, 763/389–3323.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes.

The CCP planning process will consider many elements, including wildlife and habitat management, habitat protection and acquisition, wilderness preservation, public recreational activities, industrial use, and cultural resource preservation. Public input into this planning process is essential.

The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuge and how the Service will implement management strategies.

The Service will prepare an Environmental Assessment (EA) in accordance with procedures for implementing NEPA found in the Departmental Manual 516 DM 6, Appendix 1.

The Service will contract for a cultural resources overview study in support of the comprehensive conservation plan. The professional study will identify known sites on the refuge. We are also asking the public to identify any cultural sites that are important to them.

Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available in summer 2002.

Dated: April 26, 2001.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 01–11221 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

On April 20, 2000, a notice was published in the **Federal Register** (Vol. 65, No. 77 FR 21203) that an application had been filed with the U.S. Fish and Wildlife Service (Service) by Magic Carpet Woods Association (Association), Traverse City, Michigan, for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 USC 1539), as amended, piping plover (*Charadrius melodus*) on Lake Michigan shoreline owned by the Association pursuant to the terms of the Associations' Habitat Conservation Plan.

Notice is hereby given that on March 20, 2001, as authorized by the provisions of the Act, the Service issued a permit (TE–025433) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit may be requested by contacting Peter Fasbender, at (612)713–5343, peter_fasbender@fws.gov.

Dated: April 16, 2001.

Charlie Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–11191 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to amend endangered species recovery.

The following applicant has applied for an amended permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE023308–2

Applicant: U.S. Fish and Wildlife Service, Twin Cities Field Office, Bloomington, Minnesota (Russ Peterson, Field Supervisor).

The applicant holds a permit to take (collect, hold in captivity, propagate, and release) endangered Higgins' eye pearlymussels (*Lampsilis higginsi*) from locations within their historic range in the States of Iowa, Minnesota, and Wisconsin. The applicant requests authorization to expand the geographical area permitted for reintroducing artificially propagated specimens into the wild to include all historical locations of the species, including mainstem and tributaries of the Upper Mississippi River including the Chippewa, St. Croix, Black and Wisconsin Rivers in Wisconsin; the Iowa, Cedar and Wapsipinicon Rivers in Iowa; the Illinois, Sangamon, and Rock Rivers in Illinois; and, the Minnesota River in Minnesota. This permit is for the enhancement of survival of the species in the wild to protect from zebra mussel (*Dreissena polymorpha*) infestation, in the interest of recovery.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: April 20, 2001.

Charlie Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–11192 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Advisory Committee on Water Information (ACWI); Meeting

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of an open meeting of the Advisory Committee on Water Information (ACWI).

SUMMARY: Notice is hereby given of a meeting of the ACWI. This meeting of the ACWI is to discuss broad policy-related topics relating to national water initiatives, and to hear reports from ACWI subgroups. The proposed agenda will include a series of discussions concerning various U.S. Government policies and programs related to the development and dissemination of water information.

The ACWI has been established under the authority of the Office of Management and Budget Memorandum 92–01 and the Federal Advisory Committee Act. The purpose of the ACWI is to provide a forum for water-information users and professionals to advise the Federal Government of activities and plans which may improve the effectiveness of meeting the Nation's water information needs. More than 30 organizations have been invited by the Secretary of the Interior to name representatives to the ACWI. These include Federal departments, State, local, and tribal government organizations, industry, academia, agriculture, environmental organizations, professional societies, and volunteer groups.

DATES: The formal meeting will convene at 8:30 a.m., on May 15, 2001, and will adjourn on May 16, 2001 at 5 p.m.

ADDRESSES: American Society of Civil Engineers Bechtel Conference Center, 1801 Alexander Bell Drive, Reston, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Toni M. Johnson (Executive Secretary), Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, 417 National Center, Reston, VA 20192. Telephone: 703–648–6810; Fax: 703–648–5644.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Up to a half hour will be set aside for public comment. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provide a written request with a description of the general subject to Ms. Johnson at the above address no later than noon, May 11, 2001. It is requested that 40 copies of a written statement be submitted at the time of the meeting for distribution to members of the ACWI and placement in the official file. Any member of the public may submit written information and (or) comments to Ms. Johnson for distribution at the ACWI Meeting.

Dated: April 30, 2001.

Stephen F. Blanchard,

Acting Chief, Office of Information, U.S. Geological Survey.

[FR Doc. 01–11232 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved off-track wagering Tribal-State compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Deputy Assistant Secretary—Indian Affairs (Management), Department of the Interior, through his delegated authority, has approved the Tribal-State Compact between the Absentee Shawnee Tribe and the State of Oklahoma, which was executed on March 28, 2001.

DATES: This action is effective May 4, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 1, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–11418 Filed 5–2–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Amendment to a Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Deputy Assistant Secretary—Indian Affairs (Management), Department of the Interior, through his delegated authority, has approved the Amendment between the Yankton Sioux Tribe and the State of South Dakota, which was executed on March 5, 2001.

DATES: This action is effective May 4, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 1, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–11419 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of currently approved collection (OMB No. 1006–0005).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0005. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before June 4, 2001.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, NW., Washington DC 20503. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5200, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5200, PO Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: This information collection requires certain landholders (direct or indirect landowners or lessees) and farm operators to complete forms demonstrating their compliance with the acreage limitation provisions of Federal reclamation law. These forms establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of Federal reclamation law. In addition, forms are submitted by certain farm operators to provide information concerning the services they provide and the nature of their farm operating arrangements.

All landholders whose entire westwide landholdings total 40 acres or less are exempt from the requirement to submit Reclamation Reform Act of 1982 (RRA) forms. Landholders who are ''qualified recipients'' have RRA forms submittal thresholds of 80 acres or 240 acres depending on the district's RRA forms submittal threshold category where the land is held. Only farm operators who provide multiple services to more than 960 acres held in trusts or by legal entities are required to submit forms. This collection of information allows the Bureau of Reclamation (we, our, or us) to establish landholders' compliance with Federal reclamation law.

Changes to the RRA Forms and the Instructions to Those Forms

We made some changes to the current RRA forms and the instructions to those forms that are designed to increase the respondents' understanding of the forms, instructions to the forms, and what information is required to be submitted with the forms to the districts. These changes, as detailed in the ICR, include those resulting from the 60-day comment period initiated by the notice published in the **Federal Register** on January 3, 2001 (66 FR 383, Jan. 3, 2001). All other changes that were made are editorial or typographical in nature, and are designed to increase the clarity and correctness of the forms. The proposed revisions to the RRA forms will be included starting in the 2002 water year.

Frequency: Annually.

Respondents: Landholders and farm operators of certain lands in Bureau of Reclamation projects, whose landholdings exceed specified RRA forms submittal thresholds.

Estimated Total Number of Respondents: 19,202.

Estimated Number of Responses per Respondent: 1.02.

Estimated Total Number of Annual Responses: 19,586.

Estimated Total Annual Burden on Respondents: 14,829 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Form 7–2180	5,358	1.02	5,465	60	−5,465
Form 7–2180EZ	537	1.02	548	45	411
Form 7–2181	1,758	1.02	1,793	78	2,331
Form 7–2184	40	1.02	41	45	31
Form 7–2190	1,910	1.02	1,948	60	1,948
Form 7–2190EZ	113	1.02	115	45	86
Form 7–2191	891	1.02	909	78	1,182
Form 7–2194	4	1.02	4	45	3

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Form 7–21PE	205	1.02	209	66	230
Form 7–21TRUST	1,331	1.02	1,358	60	1,358
Form 7–21VERIFY	6,452	1.02	6,581	12	1,316
Form 7–21FC	243	1.02	248	30	124
Form 7–21XS	164	1.02	167	30	84
Form 7–21FARMOP	196	1.02	200	78	260
Total	19,202	1.02	19,586		14,829

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on January 3, 2001 (66 FR 383, Jan. 3, 2001). A list of the comments received and our responses to those comments will be sent to: (1) all districts, (2) all commenters, and (3) OMB with this ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Dated: April 27, 2001.

Wayne O. Deason,

Associate Director, Office of Policy.

[FR Doc. 01–11193 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006–0006).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment: Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0006. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before June 4, 2001.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, NW., Washington DC 20503. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5200, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5200, PO Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: This information collection requires district offices to complete forms summarizing individual landholder (direct or indirect landowner or lessee) and farm operator certification and reporting forms. This collection of information allows the Bureau of Reclamation (we, our, or us) to confirm districts' compliance with Federal reclamation law.

Changes to the Reclamation Reform Act of 1982 (RRA) Forms and the Instructions to Those Forms

We made a few changes to the current Form 7–21SUMM–C and Form 7–21SUMM–R and the instructions to those forms that are editorial in nature and designed to increase the respondents' understanding of the forms, instructions to the forms, and what information is required to be submitted with the forms to the districts. These changes, as detailed in the ICR, include those resulting from the 60-day comment period initiated by the notice published in the **Federal Register** on January 3, 2001 (66 FR 384, Jan. 3, 2001). The proposed revisions to the RRA forms will be effective in the 2002 water year.

Frequency: Annually.

Respondents: Contracting entities that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 276.

Estimated Number of Responses per Respondent: 1.25.

Estimated Total Number of Annual Responses: 345.

Estimated Total Annual Burden on Respondents: 13,800 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden hours per responses	Total burden hours
7–21SUMM–C and tabulation sheets	222	1.25	278	40	11,120

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden hours per responses	Total burden hours
7–21SUMM–R and tabulation sheets	54	1.25	67	40	2,680
Total	276	1.25	345	.....	13,800

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on January 3, 2001 (66 FR 384, Jan. 3, 2001). A list of the comments received and our responses to those comments will be sent to: (1) all districts, (2) all commenters, and (3) OMB with this ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Dated: April 27, 2001.

Wayne O. Deason,

Associate Director, Office of Policy.

[FR Doc. 01–11194 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–MN–p

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection Activities Under OMB Review; Proposed New Information Collection

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of proposed new information collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and comment: Limited Recipient Identification Sheet, Trust Information Sheet for Acreage Limitation, 43 CFR part 426. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Your comments must be received on or before June 4, 2001.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior, 725 17th Street, NW., Washington DC 20503. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: D–5200, P.O. Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed forms contact Stephanie McPhee, D–5200, P.O. Box 25007, Denver, CO 80225–0007; or by telephone: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Limited Recipient Identification Sheet, Trust Information Sheet for Acreage Limitation, 43 CFR part 426.

Abstract: Identification of limited recipients.

Some entities that receive Reclamation irrigation water may believe themselves to be under the Reclamation Reform Act of 1982 (RRA) forms submittal threshold and consequently, may not submit the appropriate RRA form(s). However, some of these entities may in fact have a different RRA forms submittal threshold than what they believe it to be due to the number of natural persons benefitting from each entity and the location of the land held by each entity. In addition, some entities that are exempt from the requirement to submit RRA forms due to the size of their landholdings may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 (43 CFR 426.6(b)(2)). The information obtained through completion of the Limited Recipient Identification Sheet allows us to establish entities' compliance with Federal reclamation law. The proposed Limited Recipient Identification Sheet will be disbursed at our discretion.

Trust Review

We are required to review and approve all trusts (43 CFR part 426.7(b)(2)) in order to ensure trusts meet the regulatory criteria specified in 43 CFR part 426.7. Land held in trust generally will be attributed to the beneficiaries of the trust rather than the trustee if the criteria are met. When we become aware of trusts with a relatively small landholding (40 acres or less), we may extend to those trusts the option to complete and submit for our review the proposed Trust Information Sheet instead of actual trust documents. If we find nothing on the completed, proposed Trust Information Sheet that would warrant the further investigation of a particular trust, that trustee will not be burdened with submitting trust documents to us for in-depth review.

Changes to the RRA Forms and the Instructions to Those Forms

We made no changes (other than typographical changes) from the version of these forms offered in conjunction with the 60-day comment period initiated by the **Federal Register** notice published on January 3, 2001 (66 FR 385, Jan. 3, 2001). The proposed new forms will be effective in the 2002 water year.

Frequency: Generally, these forms will be submitted once per identified entity or trust. Each year, we expect new responses in accordance with the following numbers.

Respondents: Entity landholders and trusts identified by Reclamation that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 1,105.

Estimated Number of Responses per Respondent: 1.00.

Estimated Total Number of Annual Responses: 1,105.

Estimated Total Annual Burden on Respondents: 92 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Limited Recipient Identification Sheet	635	1.00	635	5	53
Trust Information Sheet	470	1.00	470	5	39
Total	1,105	1.00	1,105	.....	92

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) The accuracy of our burden estimate for the proposed collection of information;

(c) Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. Reclamation will display a valid OMB control number on the ''Limited Recipient Identification Sheet'' and the ''Trust Information Sheet.'' A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** on January 3, 2001 (66 FR 385, Jan. 3, 2001). A list of the comments received and our responses to those comments will be sent to: (1) All districts, (2) all commenters, and (3) OMB with this ICR; it is also available from us upon request.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Dated: April 27, 2001.

Wayne O. Deason,

Associate Director, Office of Policy.

[FR Doc. 01–11195 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR 784, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 4, 2001, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information contained in: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR Part 784. OSM is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0039.

As required under 5 CFR 1320.8(d), a **Federal Register** notice solicting comments on this collection of information was published on February 7, 2001 (66 FR 9357). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR 784.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Underground coal mining permit applicants and State Regulatory Authorities.

Total Annual Responses: 100.

Total Annual Burden Hours: 96,460.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses.

Please refer to the appropriate OMB control numbers in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240, or electronically to jtreleas@osmre.gov.

Dated: April 12, 2001.

Kathryn S. O'Toole,

Acting Chief, Division of Regulatory Support.

[FR Doc. 01–11239 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for the Permanent Program Performance Standards—Underground Mining Activities at 30 CFR 817, has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 4, 2001, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to jtrelease@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information contained in: Permanent Program Performance Standards—Underground Mining Activities at 30 CFR 817. OSM is requesting a 3-year term of approval for the information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is 1029–0048.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on February 16, 2001 (66 FR 10742). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Permanent Program Performance Standards—Underground Mining Activities, 30 CFR 817.

OMB Control Number: 1029–0048.

Summary: Sections 515 and 516 of the Surface Mining Control and Reclamation Act of 1977 provide that permittees conducting surface coal mining operations with underground mining activities shall meet all applicable performance standards of the Act. The information collected is used by the regulatory authority in monitoring and inspecting surface coal mining activities to ensure that they are conducted in compliance with the requirements of the Act.

Bureau Form Number: None.

Frequency of Collection: On occasion, quarterly and annually.

Description of Respondents: Underground coal mining operators.

Total Annual Responses: 20,745.

Total Annual Burden Hours: 95,618.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210—SIB, Washington, DC 20240, or electronically to jtreleas@osmre.gov.

Dated: April 17, 2001.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 01–11240 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–932 (Preliminary)]

Certain Folding Metal Tables and Chairs From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–932 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of certain folding metal tables and chairs, provided for in subheading 9401.71.00, 9401.79.00, and 9403.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by June 11, 2001. The Commission's views are due at the Department of Commerce within five business days thereafter, or by June 18, 2001.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 27, 2001.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of

Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 27, 2001, by Meco Corporation, Greeneville, TN.

Participation in the Investigation and Public Service List

Persons (other than petitioner) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on May 18, 2001, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than May 15, 2001, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 23, 2001, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: May 1, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–11276 Filed 5–3–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–429]

Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted a request for emergency processing for review and clearance of questionnaires to the Office of Management and Budget (OMB). The Commission has requested OMB approval of this submission by COB May 14, 2001.

EFFECTIVE DATE: April 27, 2001.

PURPOSE OF INFORMATION COLLECTION: The forms are for use by the Commission in connection with investigation No. 332–429, Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the United States Trade Representative (USTR). The Commission expects to deliver the results of its investigation to the USTR no later than September 24, 2001.

Summary of Proposal

(1) *Number of forms submitted:* 2.

(2) *Title of form:* Purchasers' Questionnaire Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat and Exporters' Questionnaire Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat.

(3) *Type of request:* new.

(4) *Frequency of use:* Single data gathering scheduled for May–June, 2001.

(5) *Description of respondents:* U.S. millers, importers, purchasers, and/or processors of Durum or Hard Red Spring wheat and U.S. exporters, merchandisers, and/or shippers of U.S. and/or Canadian Durum and/or Hard Red Spring wheat to Algeria, Brazil, Colombia, Guatemala, Peru, Philippines, South Africa, and/or Venezuela.

(6) *Estimated number of respondents:* 66 (purchasers and exporters).

(7) *Estimated total number of hours to complete the forms:* 3,496 hours.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

FOR FURTHER INFORMATION CONTACT: Copies of the forms and supporting documents may be obtained from John Reeder (202–205–3319; reeder@usitc.gov) of the Office of Industries. Comments about the proposals should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, ATTENTION: Docket Librarian. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act. Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone No. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at http://dockets/.usitc.gov/eol/public.

Issued: April 30, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–11246 Filed 5–3–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Notice of information collection under review; application to adjust status from temporary to permanent resident.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 3, 2001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved information collection.*

(2) *Title of the Form/Collection:* Application to Adjust Status from temporary to Permanent Resident.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–698. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The data collected on this form is used by the Service to determine an applicant's eligibility to adjust status from temporary to permanent resident.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,179 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,179 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, NW., Suite 1220, Washington, DC 20503.

Dated: April 27, 2001.

Richard A. Sloan,

Department Clearance Officer, Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–11324 Filed 5–3–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(BJS)–1317]

Tribal Justice Statistics Assistance Center

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Notice of solicitation for award of cooperative agreement.

SUMMARY: The purpose of this notice is to announce a solicitation for the development and implementation of a Tribal Justice Statistics Assistance Center (TJSAC) which will assist Federally recognized American Indian and Alaska Native tribes in improving the collection, quality, and use of criminal and civil justice statistics in Indian Country.

DATES: Proposals must arrive at the Bureau of Justice Statistics (BJS) on or before 5 p.m. EST, Friday, June 18, 2001, or be postmarked on or before June 18, 2001.

ADDRESSES: Proposals should be mailed to: Application Coordinator, Bureau of Justice Statistics, 810 7th Street, NW., Washington, DC 20531; (202) 616–3497.

FOR FURTHER INFORMATION CONTACT: Marika Litras, Ph.D., Statistician, Bureau of Justice Statistics, 810 7th Street, NW., Washington, DC 20531; Phone: (202) 514–4272 [This is not a toll free number]; Email: *marika.litras@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority

The award(s) made pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with the provisions of 42 U.S.C. 3732.

Program Goals

The purpose of this award is to establish a Tribal Justice Statistics Assistance Center (TJSAC) that will work with Federally recognized American Indian and Alaska Native tribes to assist them in the development and/or improvement of tribal justice agencies' internal abilities to generate and use criminal and civil justice statistics. The nature and subject matter of the assistance to be provided by the TJSAC under this grant is broadly defined and will depend on the particular needs of the tribal agency requesting assistance. Assistance may involve, for example, the evaluation of existing data collection capacity and reporting procedures, advising tribal agencies about obtaining the necessary technology, hardware and software to collect, process, maintain, and analyze criminal justice data, and providing training in the use of criminal justice and other data to inform justice decision making in Indian Country.[1] TJSAC will also serve to assist tribal jurisdictions to participate in national data collections such as the National Incident Based Reporting System (NIBRS) and the Uniform Crime Reporting (UCR) program, as well as OJP operated data collections related to corrections, criminal victimization, court processing, and juvenile justice statistics. In addition, TJSAC will provide assistance for tribal participation and access to national law enforcement data systems such as the National Criminal Information Center (NCIC) and the National Protection Order File.

BJS anticipates making one award for a 24-month period under this solicitation. Up to $825,000 will be made available for this project under the FY2001 appropriation.

Background

Implementation of the Tribal Justice Statistics Assistance Center is part of a multi-faceted effort by BJS to expand statistical activities related to American Indian and Alaska Native crime and justice issues.

The lack of criminal justice information and statistics in Indian Country has become increasingly apparent in recent years. Few Indian tribes produce statistical information about their justice systems that describe law enforcement, judicial, corrections, or juvenile justice activities and processes. National statistical programs, moreover, do not routinely contain data on criminal justice activities in Indian Country, while those that do are limited in the level of reliable and representative information they can provide.

Though a recent study found that criminal victimization among American Indians occurs at rates higher than for any other race group (*American Indians and Crime,* BJS, February 1999), tribes tend to lack objective statistical information necessary to monitor crime in their jurisdiction, evaluate criminal justice processing, and inform criminal justice management, resource allocation, and overall decision making. Few law enforcement agencies in Indian Country are able to participate in the National Incident-Based Reporting System (NIBRS) to track the incidence and prevalence of crime in their jurisdiction, and few tribes have access to or participate in the National Criminal Information Center (NCIC), the National Sex Offender Registry (NSOR), or other national criminal history record information systems that could increase tribal member safety through improved information on repeat and serious offenders. Few tribes, moreover, routinely maintain and disseminate statistics about juvenile justice issues such as youth violence and tribal youth in custody. The TJSAC would help tribes collect and disseminate information about reported crime in their jurisdiction, criminal case processing, the use or enforcement of protection orders that could be used to protect victims of rape, and family or intimate partner violence, and other relevant criminal justice statistics. These kinds of data and information systems are necessary for tribal justice policy decision making, the allocation of scarce criminal justice resources, and to assist tribal law enforcement authorities in qualifying for national crime prevention grant programs and other state pass-through funds such as the Byrne formula grant program.

Eligibility Requirements

Both profit making and nonprofit organizations may apply for funds. Consistent with OJP fiscal year requirements, however, no fees may be charged against the project by profit-making organizations.

Scope of Work

The objective of this project is to establish a Tribal Justice Statistics Assistance Center that will provide expertise and technical assistance to tribal justice agencies to improve their collection and use of criminal justice statistical data and criminal justice record keeping practices in Indian Country. Specifically, the recipient of funds will:

1. Implement a Tribal Justice Statistics Assistance Center (TJSAC) that will help American Indian and Alaska Native tribes to understand, identify, plan for, acquire and employ knowledge and tools to improve data collection and use of their criminal justice statistics. Technical assistance requests will vary according to the existing capacities of the tribal agency and the Center must be flexible in handling a wide range of needs. Assistance may range from recommending standardized data definitions and caseload management strategies, to assisting with the ongoing implementation of a NIBRS-compliant crime reporting system, to providing guidance and reference materials for acquiring basic computer access.

2. Provide technical and statistical assistance through both in-house and on-site methods. In-house methods may include, but are not limited to, telephone calls/conferences, electronic and mail correspondence, the publication and distribution (via website and mail) of reference materials, monographs, and technical bulletins. On-site visits should be reserved for more extensive needs assessments and assistance, should be conducted with the consultation and approval of BJS, and should involve considerable coordination with key tribal leaders, criminal justice, and technology staff in addition to relevant local, state, tribal and federal criminal justice agencies.

3. Convene a national or set of regional meetings on the technical, policy, operational, and collaborative aspects of implementing and maintaining criminal justice data in Indian Country. The conference should assemble forums that focus on disseminating information about the benefits tribal agencies can receive from uniform, timely, and reliable statistical systems, the use of statistical data for tribal police departments and court systems, the role of criminal justice statistics in the effective administration of justice, and encouraging cooperation among local, state, tribal, and federal level personnel in these efforts. The conference should include high-level tribal leaders, key members of regional or nationally recognized Native American organizations, and relevant personnel from local, state, tribal and federal levels of government.

4. Maintain documentation summarizing the source and nature of technical assistance requested, type of assistance provided, and action taken by tribes to implement technical assistance needs. Documentation should be provided for both in-house and on-site technical assistance. This

[1] Includes areas established as reservations or trust areas for native peoples of Alaska.

documentation will be compiled and published by BJS.

5. Develop measures to identify the progress achieved in improving criminal justice statistics in Indian Country and tribal participation in national data collection systems and national law enforcement information systems. The grantee will provide documentation in a report to BJS on assistance provided by the TJSAC during the course of the project, and will monitor and report on the number of tribes participating in national databases and information systems.

Award Procedures and Evaluation Criteria

Proposals should describe the plan and implementation strategy to accomplish each of the activities outlined in the Scope of Work. Applications will be reviewed competitively. The final selection decision will be made by the Director of BJS.

The applicant will be evaluated on the basis of:

1. Knowledge of the development, management, and implementation of criminal justice statistics in the areas of reported crime, arrests and dispositions, judicial caseload and workload, corrections, juvenile justice, and records management systems. This should include knowledge of issues related to information sharing, case processing, and data integration among local, state, tribal, and federal criminal justice agencies. Applicant should demonstrate knowledge of issues related to access and participation in national criminal justice information systems such as, but not limited to, the National Incident-Based Reporting System (NIBRS) and the National Criminal Information Center (NCIC).

2. Knowledge of tribal justice issues and impediments to implementing high-quality criminal justice statistics in Indian Country. Applicant must demonstrate the ability to coordinate and facilitate cooperation among local, state, tribal, and federal agencies in recommending the collection and use of statistics and technical improvements to tribes. Applicant should demonstrate an understanding of the historical, political, and economic factors involved in local, state, tribal, and federal relations and must demonstrate the ability (via knowledge, staff, or sub-contractual agreement) to collaborate with and involve local, regional, and/or national Native American organizations to ensure coordination of priorities in Indian Country. Applicant must detail their strategy for bringing about cooperation among these various levels of government and organizations.

3. Ability to generate awareness of and access to the TJSAC by tribal justice agencies throughout the continental U.S. and Alaska. Applicant should detail how they will make tribal justice agencies aware of the TJSAC, the services it provides, and how they can obtain assistance.

4. Contact and experience in dealing with local, state, tribal, and federal representatives on issues relating to criminal justice statistics standards, data collection, data management, and its practical application in Indian Country. Applicant should demonstrate ability to interact with relevant Federal agencies such as the Federal Bureau of Investigation (FBI), the Bureau of Indian Affairs (BIA), the Department of Justice's Office of Tribal Justice (OTJ), the Office of Community Oriented Policing Services (COPS), the Violence Against Women Office (VAWO), and the Office of Juvenile Justice and Delinquency and Prevention (OJJDP). Applicant also should describe how they will ensure coordination among local, state, and tribal governments. This includes key personnel working in the area of tribal justice, in addition to other relevant criminal justice practitioners, policy makers, and data management personnel.

5. Demonstrated capacity to ensure that provided technical assistance is coordinated with other law enforcement and crime prevention Federal grant resources such as the Office of Community Oriented Policing Services (COPS).

6. Demonstrated ability to conduct conferences and workshops that will promote awareness of the TJSAC and an understanding of the relationship between criminal justice statistics and improved administration of tribal justice. Applicant must demonstrate ability to identify key representatives at the local, state, tribal, and federal levels that will work together to advance the goals of this project.

7. Demonstrated fiscal, management, staff, and organizational capability to provide sound management for this project.

Application and Award Process

An original and five (5) copies of the full proposal must be submitted including:

- Standard Form 424, Application for Federal Assistance
- OJP Form 7150/1, Budget Detail Worksheet
- OJP Form 4000/3, Assurances
- OJP Form 4061/6, Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug Free Workplace Requirements
- OJP Form 7120–1, Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds from the Office of Justice Programs)

These forms can be obtained online from *http://www2.ojp.usdoj.gov/bjs/apply.htm*.

Proposals must include a project narrative and detailed budget. The project narrative should describe activities as discussed in the Scope of Work and address the evaluation criteria. The detailed budget must provide detailed costs including salaries of staff involved in the project and the portion of those salaries to be paid from the award, fringe benefits paid to each staff person, travel costs, supplies required for the project, sub-contractual agreements, and other allowable costs. The grant award will be made for a period of 24 months.

Dated: April 27, 2001.

Lawrence A. Greenfeld,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 01–11075 Filed 5–3–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determination in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional

statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersede decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, the following General Wage Determinations:

MO010020—See MO010018
MO010044—See MO010018
MO010051—See MO010018
MO010061—See MO010018
MO010066—See MO010018

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be affected unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by

each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC This 26 Day of April 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–10949 Filed 5–3–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–3–93]

Factory Mutual Research Corporation; Application for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Factory Mutual Research Corporation for renewal of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: Comments submitted by interested parties, or any request for extension of the time to comment, must be received no later than May 18, 2001.

ADDRESSES: Submit written comments concerning this notice to: Docket Office, Docket NRTL–3–93, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648. Submit request for extension of the comment period for this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Room N3653 at the above address, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Factory Mutual Research Corporation (FMRC) has applied for renewal of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). FMRC requests renewal for its existing scope of recognition. However, this scope will be modified, as explained later in this notice.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. As a result of recognition, OSHA can accept products ''properly certified'' by the NRTL. OSHA processes applications related to an NRTL's recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish this public notice of the preliminary finding on an application.

FMRC's scope of recognition appears in OSHA's informational web page for the NRTL (*http://www.osha-slc.gov/dts/otpca/nrtl/fmrc.html*). OSHA maintains such a page for each NRTL. In general, OSHA grants an NRTL's scope of recognition in **Federal Register** notices. Following requirements in 29 CFR 1910.7, the Agency must publish two such notices in processing applications for an NRTL's initial recognition, and for expansions or renewal of this recognition. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on an application. In the case of FMRC, and as further explained below, OSHA has renewed the NRTL's recognition once before, which the Agency announced on March 29, 1995 (60 FR 16167) and granted on August 16, 1995 (60 FR 42590). Following renewal, OSHA granted one expansion to FMRC, which the Agency announced on April 16, 1999 (64 FR 18939) and granted on August 13,1999 (64 FR 44240). The expansion covered a recognition of additional test standards.

The current addresses of the testing facilities (sites) that OSHA recognizes for FMRC are: Factory Mutual Research Corporation, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062; and Factory Mutual Research Corporation, 743 Reynolds Road, West Gloucester, Rhode Island 02814.

General Background on the Applicant and the Application

When OSHA published its regulations for the NRTL Program at 29 CFR 1910.7, it temporarily recognized FMRC as a nationally recognized testing laboratory for a five year period from June 13, 1988, through June 13, 1993 (see Appendix A to 1910.7). In Appendix A, OSHA also required that FMRC apply for renewal of its OSHA recognition at the end of this temporary period. FMRC did apply for the renewal, which OSHA announced in March 1995, as noted above. In its renewal application, FMRC stated that it began testing products in 1886 and that its first published listings of approved fire hose appeared in 1907. The Agency granted FMRC's renewal for a period of five years ending on August 16, 2000.

Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. FMRC has submitted a request, dated November 9, 1999 (see Exhibit 11), to renew its recognition, within the time allotted, and retains its recognition pending OSHA's final decision in this renewal process.

FMRC's existing scope of recognition consists of the facilities listed above, and the test standards and supplemental programs, listed below.

Test Standards

FMRC seeks renewal of its recognition for testing and certification of products to demonstrate compliance to the following 73 test standards, all of which OSHA has determined are appropriate within the meaning of 29 CFR 1910.7(c). Some of the test standards for which OSHA currently recognizes FMRC were no longer appropriate at the time of preparation of this preliminary notice, primarily because they have been withdrawn by the standards developing organization. OSHA has excluded these test standards in the listing below. However, under OSHA policy, the NRTL may request recognition for comparable standards. Since a number of NRTLs are affected by such withdrawn standards, OSHA will publish a separate notice to make the appropriate substitutions for FMRC and other NRTLs that were recognized for these standards. The Agency has contacted these NRTLs regarding this matter.

OSHA's recognition of FMRC or any NRTL for a particular test standard is limited to equipment or materials (i.e., products) for which OSHA standards require third party testing and certification before use in the workplace. As a result, OSHA's recognition of an NRTL for a test

standard excludes any product(s), falling within the scope of the test standard, for which OSHA has no such requirements.

ANSI ICS 2 Industrial Control Devices, Controllers and Assemblies
ANSI S12.12 Electrical Equipment for Use in Class I, Division 2, Hazardous (Classified) Locations
ANSI S12.15 Hydrogen Sulfide Detection Instruments
ANSI S82.02.01 Electric and Electronic Test, Measuring, Controlling, and Related Equipment: General Requirements
ANSI S82.02.02 Electrical Equipment for Measurement, Control, and Laboratory Use
ANSI Z8.1 Commercial Laundry and Drycleaning Equipment and Operations
UL 8 Foam Fire Extinguishers
ANSI11 Low Expansion Foam and Combined Agent Systems
ANSI 11A Medium-and High-Expansion Foam Systems
ANSI 12 Carbon Dioxide Extinguishing Systems
ANSI 12A Halon 1301 Fire Extinguishing Agent Systems
ANSI 13 Installation of Sprinkler Systems
ANSI 16 Deluge Foam-Water Sprinkler and Spray Systems
ANSI 17 Dry Chemical Extinguishing Systems
ANSI 20 Centrifugal Fire Pumps
UL 38 Manually Actuated Signaling Boxes for Use With Fire-Protective Signaling Systems
ANSI 72 Installation, Maintenance, and Use of Protective Signaling Systems
UL 154 Carbon-Dioxide Fire Extinguishers
UL 162 Foam Equipment and Liquid Concentrates
ANSI 250 Enclosures for Electrical Equipment
UL 299 Dry Chemical Fire Extinguishers
UL 346 Waterflow Indicators for Fire Protective Signaling Systems
UL 347 High-Voltage Industrial Control Equipment
UL 508 Electric Industrial Control Equipment
UL 558 Industrial Trucks, Internal Combustion Engine-Powered
UL 583 Electric-Battery-Powered Industrial Trucks
UL 626 2½ Gallon Stored-Pressure, Water-Type Fire Extinguishers
UL 664 Commercial (Class IV) Electric Dry-Cleaning Machines
UL 674 Electric Motors and Generators for Use in Hazardous (Classified) Locations
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations
UL 711 Rating and Fire Testing of Fire Extinguishers
UL 753 Alarms Accessories for Automatic Water-Supply Control Valves
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations
UL 823 Electric Heaters for Use in Hazardous (Classified) Locations
UL 827 Central-Stations for Watchmen, Fire-Alarm, and Supervisory Services
UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations
UL 863 Time-Indicating and -Recording Appliances
UL 864 Control Units for Fire-Protective Signaling Systems
UL 877 Circuit Breakers and Circuit-Breaker Enclosure for Use in Hazardous (Classified) Locations
UL 886 Electrical Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations
UL 894 Switches for Use in Hazardous (Classified) Locations
UL 913 Intrinsically Safe Apparatus and Associated Apparatus for Use In Class I, II, and III, Division I, Hazardous (Classified) Locations
UL 1002 Electrically Operated Valve for Use in Hazardous (Classified) Locations
UL 1058 Halogen Agent Extinguishing System Units
UL 1093 Halogenated Agent Fire Extinguishers
FMRC 1110 Indicator Posts
UL 1203 Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations
UL 1206 Electrical Commercial Clothes-Washing Equipment
UL 1207 Sewage Pumps for Use in Hazardous (Classified) Locations
FMRC 1221 Backflow Preventers
UL 1236 Battery Chargers for Charging Engine-Starter Batteries
UL 1240 Electric Commercial Clothes-Drying Equipment
UL 1254 Pre-Engineered Dry Chemical Extinguishing System Units
UL 1262 Laboratory Equipment
FMRC 1321 Controllers for Electric Motor Driven Fire Pumps
FMRC 1333 Diesel Engine Fire Pump Drivers
FMRC 1635 Plastic Pipe and Fittings for Automatic Sprinkler Systems
UL 1950 Information Technology Equipment Including Electrical Business Equipment
FMRC 2000 Automatic Sprinklers for Fire Protection
FMRC 2008 Early Suppression-Fast Response (ESFR) Automatic Sprinklers
FMRC 3260 Flame Radiation Detectors for Automatic Fire Alarm Signaling
FMRC 3600 Electrical Equipment for Use in Hazardous (Classified) Locations, General Requirements
FMRC 3610 Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, I and III, Division 1 Hazardous (Classified) Locations
FMRC 3611 Electrical Equipment for Use in Class I, Division 2; Class II, Division 2; and Class III, Division 1 and 2 Hazardous Locations
FMRC 3615 Explosion proof Electrical Equipment, General Requirements
FMRC 3620 Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations
FMRC 3810 Electrical and Electronic Test, Measuring, and Process Control Equipment
FMRC 3990 Less or nonflammable Liquid-Insulated Transformers
FMRC 6051 Safety Containers and Filing, Supply and Disposal Containers
FMRC 6310 Combustible Gas Detectors
FMRC 7812 Industrial Trucks—LP-Gas
FMRC 7816 Industrial Trucks—LP-Gas Dual Fuel
FMRC 7820 Industrial Trucks—Electric

Note: Testing and certification of gas operated equipment is limited to equipment for use with ''liquefied petroleum gas'' (''LPG'' or ''LP-Gas'').

The designations and titles of the above test standards were current at the time of the preparation of this notice.

Many of the test standards listed above are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we show the designation of the standards developing organization (e.g., UL 1950) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1950). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site to find out whether or not a standard is currently ANSI-approved.

Programs and Procedures

FMRC's renewal also covers use of the supplemental programs listed below, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice

(60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which (called supplemental programs) an NRTL may use to rely on other parties to perform product testing and evaluation activities. An NRTL's initial recognition will always include the first or basic program, which requires that all of these activities be performed in-house by the NRTL that will certify the product. OSHA previously granted FMRC recognition to use these programs, which currently are listed in OSHA's informational web page on the FMRC recognition.

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 3: Acceptance of product evaluations from independent organizations, other than NRTLs.

Program 4: Acceptance of witnessed testing data.

Program 5: Acceptance of testing data from non-independent organizations.

Program 6: Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing).

Program 7: Acceptance of continued certification following minor modifications by the client.

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC–CB) Scheme.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

OSHA developed the program descriptions to limit how an NRTL may perform certain aspects of its work and to accept the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does treat these programs as one of the three elements that defines an NRTL's scope of recognition.

Preliminary Finding on the Application

FMRC has submitted an acceptable request for renewal of its recognition as an NRTL. While processing this request, OSHA performed an on-site review of FMRC's NRTL testing facilities. FMRC has addressed any discrepancies noted by the assessor following the on-site evaluation, and the assessor has recommended renewal of FMRC's recognition (see Exhibit 12).

Following a review of the application file, the assessor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant to FMRC the renewal of its recognition as an NRTL to use the facilities, test standards, and programs listed above. The staff, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Agency has made a preliminary finding that the Factory Mutual Research Corporation can meet the requirements, as prescribed by 29 CFR 1910.7, for the renewal of its recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether FMRC has met the requirements of 29 CFR 1910.7 for renewal of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS**) no later than the last date for comments (see **DATES** above). Should you need more time to comment, OSHA must receive your written request for extension at the address provided above (also see **ADDRESS**) no later than the last date for comments (also see **DATES** above). You must include your reason(s) for any request for extension. OSHA will limit an extension to 15 days unless the requester justifies a longer period. We may deny a request for extension if it is frivolous or otherwise unwarranted. You may obtain or review copies of FMRC's requests, the memo on the recommendation, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL3–93, the permanent record of public information on FMRC's recognition.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant FMRC's application for renewal of recognition. The Agency will make the final decision on granting the renewal and, in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR Section 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register.**

Signed at Washington, DC this 26th day of April 2001.

R. Davis Layne,

Acting Assistant Secretary.

[FR Doc. 01–11245 Filed 5–3–01; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2001–16; Exemption Application No. D–10584, et al.]

Grant of Individual Exemptions; New York Life Insurance Company (NYLIC) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

New York Life Insurance Company (NYLIC) Located In New York, NY

[Prohibited Transaction Exemption 2001–16 Exemption Application No.: D–10584]

Exemption

I. Transactions

The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code shall not apply to the following transactions, if the conditions set forth in Section II and Section III, below, are satisfied:

(a) The receipt, directly or indirectly, by a sales agent (Sales Agent or Sales Agents), as defined in Section IV(l) below, of a sales commission from NYLIC in connection with the purchase, with plan assets, of an insurance contract (the Insurance Contract or Insurance Contracts), as defined in Section IV(h) below;

(b) The receipt of a sales commission by NYLIC, as principal underwriter for a mutual fund registered under the Investment Company Act of 1940, in connection with the purchase, with plan assets, of securities issued by such mutual fund (the NYLife Fund or NYLife Funds), as defined in Section IV(c) below;

(c) The effecting by NYLIC, as principal underwriter, of a transaction for the purchase, with plan assets, of securities issued by a NYLife Fund, and the effecting by a Sales Agent of a transaction for the purchase, with plan assets, of an Insurance Contract; and

(d) The purchase, with plan assets, of an Insurance Contract from NYLIC.

II. General Conditions

(a) The transactions are effected by NYLIC in the ordinary course of NYLIC's business as an insurance company, or as a principal underwriter to an NYLife Fund, or in the case of a Sales Agent, in the ordinary course of the Sales Agent's business as a Sales Agent.

(b) The transactions are on terms at least as favorable to the plan as an arm's length transaction with an unrelated party would be.

(c) The combined total of all fees, sales commissions, and other consideration received by NYLIC or a Sales Agent: (1) For the provision of services to the plan, and (2) in connection with a purchase of an Insurance Contract or securities issued by a NYLife Fund, is not in excess of ''reasonable compensation'' within the contemplation of section 408(b)(2) and (c)(2) of the Act and section 4975(d)(2) and (d)(10) of the Code. If such total is in excess of ''reasonable compensation'' the ''amount involved'' for purposes of the civil penalties of section 502(i) of the Act and excise taxes imposed by section 4975(a) and (b) of the Code is the amount of compensation in excess of ''reasonable compensation.''

III. Specific Conditions

(a) NYLIC or the Sales Agent is not—

(1) A trustee of the plan (other than a non-discretionary trustee who does not render investment advice with respect to any assets of the plan or a trustee to a pooled trust (the Pooled Trust), as defined in Section IV(g) below, which will not purchase Insurance Contracts or securities issued by a NYLife Fund pursuant to this exemption);

(2) A plan administrator (within the meaning of section 3(16)(A) of the Act and section 414(g) of the Code;

(3) A fiduciary who is expressly authorized in writing to manage, acquire, or dispose of, on a discretionary basis, those assets of the plan that are or could be invested in Insurance Contracts, securities issued by a NYLife Fund, or units of a Pooled Trust; or

(4) An employer any of whose employees are covered by the plan.

(b) (1) Prior to the execution of a transaction involving the receipt of sales commissions by a Sales Agent in connection with the plan's purchase of an Insurance Contract, NYLIC or the Sales Agent provides to an independent plan fiduciary (the Independent Plan Fiduciary), as defined in Section IV(f) below, disclosures of the following information concerning the Insurance Contract in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) An explanation of: (i) the nature of the affiliation or relationship between NYLIC and the Sales Agent recommending the Insurance Contract; and, (ii) the nature of any limitations that such affiliation or relationship, or any agreement between the Sales Agent and NYLIC places on the Sales Agent's ability to recommend Insurance Contracts;

(B) The sales commission, expressed as a percentage of gross annual premium payments for the first year and for each of the succeeding renewal years, that will be paid by NYLIC to the Sales Agent in connection with the purchase of the recommended Insurance Contract, together with a description of any factors that may affect the commission; and

(C) A full and detailed description of any charges, fees, discounts, penalties, or adjustments which may be paid by the plan under the recommended Insurance Contract in connection with the plan's purchase, holding, exchange, termination, or sale of the Insurance Contract, including a description of any factors that may affect the level of charges, fees, discounts, or penalties paid by the plan.

(2) Following receipt of the information required to be provided to the Independent Plan Fiduciary, as described in Section III(b)(1) above, and before execution of the transaction, the Independent Plan Fiduciary acknowledges in writing receipt of such information, and approves the transaction on behalf of the plan. The Independent Plan Fiduciary may be an employer of employees covered by the plan but may not be a Sales Agent involved in the transaction. The Independent Plan Fiduciary may not receive, directly or indirectly (*e.g.* through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(3) With respect to additional purchases of Insurance Contracts, the written disclosure required under Section III(b)(1) need not be repeated, unless—

(A) More than three years have passed since such disclosure was made with respect to the same kind of Insurance Contract, or

(B) The Insurance Contract being recommended for purchase or the commission with respect thereto is materially different from that for which the approval described under Section III(b)(2) was obtained.

(c)(1) With respect to purchases with plan assets of securities issued by a NYLife Fund, or receipt of sales commissions by NYLIC in connection with such purchases, NYLIC provides to an Independent Plan Fiduciary, prior to the execution of the transaction, the following information concerning the

recommended NYLife Fund in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) A description of: (i) the investment objectives and policies of the NYLife Fund, (ii) the principal investment strategies that the NYLife Fund may use to obtain its investment objectives, (iii) the principal risk factors associated with investing in the NYLife Fund, (iv) historical investment return information for the NYLife Fund, (v) fees and expenses of the NYLife Fund, including annual operating expenses (*e.g.*, management fees, distribution fees, service fees, and other expenses) and fees paid by shareholders (*e.g.*, sales charges and redemption fees), (vi) the identity of the NYLife Fund adviser, and (vii) the procedures for purchases of securities issued by the NYLife Fund (including any applicable minimum investment requirements and sales charges);

(B) A description of: (i) the expenses of the recommended NYLife Fund, including investment management, investment advisory, or similar services, any fees for secondary services (e.g., for services other than investment management, investment advisory, or similar services, including but not limited to custodial, administrative, or other services), and (ii) any charges, fees, discounts, penalties, or adjustments that may be paid by the plan in connection with the purchase, holding, exchange, termination, or sale of shares of the recommended NYLife Fund securities, together with a description of any factors that may affect the level of charges, fees, discounts, or penalties paid by the plan or the NYLife Fund;

(C) An explanation of (i) the nature of the affiliation or relationship between NYLIC, the NYLife Fund, and (ii) the limitation, if any, that such affiliation, relationship, or any agreement between NYLIC and the NYLife Fund places on NYLIC's ability to recommend securities issued by other investment companies;

(D) The sales commission, if any, that NYLIC will receive in connection with the purchase of securities of the recommended NYLife Fund, expressed either as: (i) a percentage of the dollar amount of the plan's gross payments and the amount actually invested, (ii) an annual percentage of average daily net asset value of securities issued by the NYLife Fund, or (iii) both if applicable, with a description of any factors that may affect the commission; and

(E) A description of the procedure or procedures for redeeming the NYLife Fund securities.

The disclosures required under Section III(c)(1) above shall be deemed to be completed only if, with respect to fees and expenses of NYLife Fund, the type of each fee or expense (*e.g.*, management fees, administrative fees, fund operating expenses, and other fees, including but not limited to fees payable for marketing and distribution services pursuant to Rule 12b–1 under the Investment Company Act of 1940 (the 12b–1 Fees)) and the rate or amount charged for a specified period (*e.g.*, annually) is provided in a written document separate from the prospectus of such NYLife Fund.

(2) Following receipt of the information required to be provided to the Independent Plan Fiduciary, as described in Section III(c)(1) above, and before execution of the transaction, the Independent Plan Fiduciary approves the specific transaction on behalf of the plan. Unless facts and circumstances would indicate the contrary, such approval may be presumed if the Independent Plan Fiduciary directs the transaction to proceed after NYLIC has delivered the written disclosures to the Independent Plan Fiduciary. The Independent Plan Fiduciary may be an employer of employees covered by the plan but may not be NYLIC. The Independent Plan Fiduciary may not receive, directly or indirectly (*e.g.* through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(3) With respect to additional purchases of NYLife Fund securities, NYLIC:

(A) Provides reasonable advance notice of any material change with respect to the NYLife Fund securities being purchased or the commission with respect thereto, and

(B) Repeats the written disclosure required under Section III(c)(1)(A), (C), (D), and (E) once every three years.

(d)(1) NYLIC shall retain or cause to be retained for a period of six (6) years from the date of any transaction covered by this exemption the following:

(A) The information disclosed with respect to such transaction pursuant to Section III(b), and (c) above; and

(B) Any additional information or documents provided to the Independent Plan Fiduciary with respect to the transaction; and

(C) The written acknowledgments described in Section III(b)(2) above.

(2) A prohibited transaction shall not be deemed to have occurred if, due to circumstances beyond the control of NYLIC, such records are lost or destroyed before the end of such six-year period.

(3) Notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, such records shall be unconditionally available for examination during normal business hours by duly authorized employees or representatives of the Department of Labor, the Internal Revenue Service, plan participants and beneficiaries, any employer of plan participants and beneficiaries, and any employee organization any of whose members are covered by the plan.

(e) Neither NYLIC nor a Sales Agent renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to the assets involved in the transaction in connection with a formal advice program under which specific/individualized asset allocation recommendations are made available to participants based on their responses to questionnaires.

IV. Definitions

For purposes of this exemption—

(a) ''NYLTC'' means the New York Life Trust Company, or any other financial institution supervised under state or federal laws and affiliated with NYLIC;

(b) ''NYLIC'' means the New York Life Insurance Company and any of its affiliates, including but not limited to NYLTC, as defined in Section IV(a) above;

(c) ''NYLife Fund or NYLife Funds'' mean any investment company registered under the Investment Company Act of 1940 for which NYLIC serves as investment advisor and as principal underwriter (as that term is defined in section 2(a)(29) of the Investment Company Act of 1940, 15 U.S.C. § 80a–2(a)(29));

(d) An ''affiliate'' of a person means: (1) any person directly or indirectly controlling, controlled by, or under common control with such person, (2) any officer, director, employee, or relative of any such person, or any partner in such person, and (3) any corporation or partnership of which such person is an officer, director, or employee, or in which such person is a partner. For purposes of this definition, an ''employee'' includes: (A) any registered representative of NYLIC, where NYLIC or an affiliate is principal underwriter, and (B) any insurance agent or broker or pension consultant acting under a written agreement as NYLIC's agent in connection with the sale of an Insurance Contract, whether or not such registered representative or insurance agent or broker or pension

consultant is a common law employee of NYLIC;

(e) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual;

(f) ''Independent Plan Fiduciary'' means a fiduciary with respect to a plan, which fiduciary has no relationship to or interest in NYLIC that might affect the exercise of such fiduciary's best judgment as a fiduciary;

(g) ''Pooled Trust'' means any collective investment fund or group trust maintained by NYLTC, provided that, NYLTC its successor or affiliate does not have discretionary authority or responsibility with respect to the management and administration of or provide investment advice with respect to, any assets of the plan that are or could be invested in Insurance Contracts, securities issued by a NYLife Fund, or units of a Pooled Trust;

(h) ''Insurance Contract or Insurance Contacts'' mean an insurance or annuity contract issued by NYLIC;[1]

(i) A ''nondiscretionary trustee'' of a plan is a trustee whose powers and duties with respect to any assets of the plan are limited to: (1) The provision of nondiscretionary trust services, as defined in Section IV(j) below, to such plan, and (2) the duties imposed on the trustee by any provision or provisions of the Act or the Code;

(j) ''Nondiscretionary trust services'' mean custodial services and services ancillary to custodial services, none of which services are discretionary;

(k) A ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in Code section 4975(e)(6), or a brother, a sister, or a spouse of a brother or a sister;

(l) ''Sales Agent or Sales Agents'' mean any insurance agent, broker, or pension consultant or any affiliate thereof that is affiliated with NYLIC; and

(m) ''Principal underwriter'' is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 8a–2(a)(29)).

Effective Date

This exemption is effective, as of February 12, 1998, the date of the filing of the application for exemption.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department of Labor (the Department) invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within thirty (30) days of the date of the publication of the Notice in the **Federal Register** on February 15, 2001. All comments and requests for a hearing were due by April 6, 2001.

During the comment period, the Department received no requests for a hearing. However, the Department did receive a comment letter from the applicant. In this regard, in a letter dated April 6, 2001, the applicant requested certain amendments to the language of the Summary of Facts and Representations (the SFR), as published in the Notice. The applicant believes that none of the changes described below involve material changes in any facts or representation made by NYLIC in its application to the Department.

A discussion of each of the applicant's comments and the Department's responses, thereto, are set forth in the numbered paragraphs below. In the language below, words that have been stricken from the text of the SFR appear in the closed brackets, and additions to the SFR appear in bold italics.

1. *Representation 2.* The applicant has informed the Department that NYLIC recently organized a new wholly-owned investment management subsidiary, New York Life Investment Management LLC (NYLIM), and has made other changes to the names or organization of one or more of its subsidiaries. The applicant requests that the Department substitute the language, as set forth in the paragraph below, for the text of Representation 2, as it appeared in the SFR.

The Department concurs. Accordingly, the language, as set forth in the Notice at 66 FR at 10517, column 1, lines 49 to 57 and column 2, lines 1–2 should have read as follows:

The application was filed on behalf of NYLIC and its direct or indirect wholly-owned subsidiaries, New York Life Trust Company (NYLTC), New York Life Benefit Services *LLC* (NYLBS), NYLIFE Distributors Inc. (NYLIFE Distributors), *New York Life Investment Management LLC* (NYLIM), MacKay-Shields *LLC* ~~[Financial Corporation]~~ (MacKay-Shields), ~~[Monitor Capital Advisors, Inc. (Monitor Capital)]~~, and NYLIFE Securities Inc. (NYLIFE Securities).

2. *Representation 3.* The applicant wishes to update the total consolidated assets information, as published in the SFR. In this regard, the applicant represents that the revised numbers, as set forth below, are based on NYLIC's annual report, as of December 31, 2000. It is further represented that this report includes condensed, consolidated financial information for NYLIC and its domestic, wholly-owned life insurance subsidiaries, New York Life Insurance and Annuity Corporation and NYLIC Insurance Company of Arizona.

The Department concurs. Accordingly, the language, as set forth in the Notice at 66 FR at 10517, column 2, lines 5–9 should have read, as follows:

As of December 31, ~~[1996]~~ 2000, NYLIC had *approximately $97.1 billion in* total consolidated assets ~~[of approximately $78.8 billion and net]~~ (*including* policy reserves) *and $88.4 billion in total liabilities* ~~[of $74.8 billion]~~.

In addition, the applicant wishes to clarify the following statement that appeared in Representation 3 in the Notice at 66 FR at 10517, column 2, lines 16–23:

It is represented that all insurance products offered by NYLIC are reviewed and approved by the New York Insurance Department under New York insurance laws and under the applicable insurance laws of any other state where such products are marketed and sold.

The applicant notes that insurance products offered by NYLIC are reviewed and approved by the New York State Insurance Department under New York laws *or* under the applicable insurance laws of another state where such products are marketed and sold. In this regard, NYLIC may not obtain New York State Insurance Department approval for insurance products marketed and sold in states other than New York, although such products are filed with the New York State Insurance Department. In addition, insurance products offered by certain subsidiaries of NYLIC that are organized and supervised by another state are not approved by the New York State Insurance Department but are filed with the New York State Insurance Department if marketed in New York.

The Department acknowledges the clarification as submitted by the applicant.

3. *Representation 6.* The applicant has informed the Department of certain changes with respect to the NYLife Funds, including the renaming of the MainStay Institutional Funds Inc. on

[1] The Department expresses no opinion as to whether any so-called ''synthetic guaranteed insurance contracts'' offered by NYLIC constitute an Insurance Contract within the meaning of this exemption. The Department further notes that this exemption provides relief from the self-dealing and conflict of interest provisions of the Act in connection with the sale of Insurance Contracts to plans by fiduciaries. It does not provide relief from any acts of self-dealing that do not arise directly in connection with the purchase of specific insurance products. Thus, for example, no relief is provided under this exemption for any act of self-dealing that may arise in connection with the ongoing operation or administration of an Insurance Contract.

December 29, 2000. Therefore, the applicant requests that the Department substitute the language, as set forth in the paragraph below, for the text of Representation 6, as it appeared in the SFR.

The Department concurs. Accordingly, the language, as set forth in the Notice at 66 FR at 10517, column 3, lines 29 to 60 and at 10518, column 1, lines 1–7 should have read as follows:

The NYLife Funds are open-end investment companies registered with the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940. The NYLife Funds are offered to plans directly and through variable life and annuity contracts issued by NYLIC. Currently, the NYLife Funds include [~~the~~] The MainStay Funds, which are available to retail and institutional investors (including defined contribution plans) and the [~~MainStay Institutional~~] *Eclipse* Funds Inc., *and Eclipse Funds,* which are [~~only~~] available to institutional investors, [~~and to~~] group individual retirement account customers, *and retail investors.* The MainStay Funds, organized as a Massachusetts business trust, currently include [~~fourteen (14)~~] *twenty-five (25)* separate funds, each of which has its own investment objectives and policies. *Eclipse Funds Inc., a Maryland corporation, currently offers thirteen (13)separate funds, and the Eclipse Funds, a Massachusetts business trust, currently offers four (4) separate funds. Both the Eclipse Funds Inc. and the Eclipse Funds are marketed under a combined prospectus.* [~~MainStay Institutional Funds Inc. currently include eleven (11) separate funds~~].

Affiliates of NYLIC *provide* [~~provides~~] a broad range of services to NYLife Funds. Specifically, the NYLife Funds are managed by *NYLIM.* MacKay-Shields is a *sub-advisor to one or more of the NYLife Funds.* [~~or Monitor Capital, both of which~~] *Both* are registered investment advisers and indirect wholly-owned subsidiaries of NYLIC. *NYLIM* [~~NYLIC~~] is the administrator to each of the NYLife Funds and provides various services, including administration, accounting, and other similar services and shareholder administration and sub-accounting for which *NYLIM* [~~NYLIC~~] and/or its affiliates may receive management fees, administrative fees, and/or shareholder services fees.

4. *Representation 9.* The applicant wishes to clarify the following statement that appeared in Representation 9 in the Notice at 66 FR at 10518, column 2, line 1:

In this regard, it is represented that NYLIC will advise NYLTC in connection with the management of the Collective Trust, although NYLTC will have final decision making authority.

The applicant has informed the Department that NYLIC has engaged NYLIM to advise it in providing investment management services to all of its clients, including services provided by NYLIC to NYLTC for the Collective Trust. However, it is represented that NYLIC remains fully responsible for providing advice and other services under the terms and conditions of the documents governing the Collective Trust, described in Representation 9, as published in the SFR.

The Department acknowledges the clarification as submitted by the applicant.

After giving full consideration to the entire record, including the written comment from the applicant, the Department has decided to grant the exemption, as described, amended, clarified, and concurred in above. In this regard, the comment letter submitted by the applicant to the Department has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on February 15, 2001, at 66 FR 10514.

For Further Information Contact

Angelena C. Le Blanc of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Indianapolis Life Insurance Company (Indianapolis Life) and AmerUs Group Co. (AmerUs Group) Located in Indianapolis, IN

[Prohibited Transaction Exemption 2001–17; Exemption Application No. D–10930]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act (or ERISA) and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the receipt of common stock (Common Stock) issued by AmerUs Group, which will become the parent of Indianapolis Life, or (2) the receipt of cash (Cash) or policy credits (Policy Credits), by or on behalf of a policyowner of Indianapolis Life who is an eligible member, as defined in Section III (the Eligible Member), which is an employee benefit Plan, including an employee benefit plan that is sponsored by Indianapolis Life and its affiliates for their own employees (the Indianapolis Life Plans; collectively, the Plans), in exchange for such Eligible Member's membership interest in Indianapolis Life, in accordance with the terms of a plan of conversion (the Plan of Conversion), implemented under Indiana law.[2]

In addition, the restrictions of section 406(a)(1)(E) and (a)(2) and section 407(a)(2) of the Act shall not apply to the receipt or holding, by the Indianapolis Life Insurance Company Group Term Life Insurance Plan for Employees, Plan No. 505 (the IL Group Term Life Insurance Plan), of employer securities in the form of excess AmerUs Group Common Stock, in accordance with the terms of the Plan of Conversion.

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Plan of Conversion is subject to approval, review and supervision by the Commissioner of Insurance of the Indiana Department of Insurance (the Commissioner) and is implemented in accordance with procedural and substantive safeguards imposed under Indiana law.

(b) The Commissioner reviews the terms and options that are provided to Eligible Members as part of such Commissioner's review of the Plan of Conversion, and the Commissioner approves the Plan of Conversion following a determination that such Plan is fair, reasonable and equitable to Eligible Members.

(c) Each Eligible Member has an opportunity to vote to approve the Plan of Conversion after full written disclosure is given to the Eligible Member by Indianapolis Life.

(d) Any determination to receive Common Stock, Cash or Policy Credits by an Eligible Member which is a Plan, pursuant to the terms of the Plan of Conversion, is made by one or more Plan fiduciaries which are independent of Indianapolis Life and its affiliates and neither Indianapolis Life nor any of its affiliates exercises any discretion or provides ''investment advice'' within the meaning of 29 CFR 2510.3–21(c), with respect to such decisions.

(e) After each Eligible Member entitled to receive shares of AmerUs Group Common Stock is allocated at least 12 shares, additional consideration is allocated to Eligible Members who own participating policies based on actuarial formulas that take into account

[2] Unless otherwise noted, all references to Indianapolis Life and its affiliates are deemed to include references to AmerUs Group and its affiliates.

the actuarial contribution, if any, that each Eligible Member's policy has made (and is expected to make) to Indianapolis Life's statutory surplus, which formulas are subject to review and approval by the Commissioner.

(f) In the case of the Indianapolis Life Plans, the independent fiduciary—

(1) Votes on whether to approve or not to approve the proposed restructuring process (the Restructuring);

(2) Elects between consideration in the form of AmerUs Group Common Stock or Cash;

(3) Determines how to apply the Cash or AmerUs Group Common Stock received for the benefit of the participants and beneficiaries of the Indianapolis Life Plans;

(4) Votes shares of AmerUs Group Common Stock held by all Indianapolis Life Plans, including the IL Group Term Life Insurance Plan, and disposes of such stock held by the IL Group Term Life Insurance Plan exceeding the limitation of section 407(a)(2) of the Act as soon as reasonably practicable, but in no event later than six months after the effective date of the Plan of Conversion.

(5) Provides the Department with a complete and detailed final report as it relates to the Indianapolis Life Plans prior to the effective date of the Restructuring; and

(6) Takes all actions that are necessary and appropriate to safeguard the interests of the Indianapolis Life Plans and their participants and beneficiaries.

(g) All Eligible Members that are Plans participate in the transactions on the same basis as all Eligible Members that are not Plans.

(h) No Eligible Member pays any brokerage commissions or fees in connection with their receipt of AmerUs Group Common Stock or Policy Credits or in connection with the implementation of the commission-free purchase and sale program.

(i) All of Indianapolis Life's policyholder obligations remain in force and are not affected by the Plan of Conversion.

Section III. Definitions

For purposes of this exemption,

(a) The term ''Indianapolis Life'' means Indianapolis Life Insurance Company and AmerUs Group Co., unless otherwise noted.

(b) An ''affiliate'' of Indianapolis Life includes —

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Indianapolis Life. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) A ''policy'' is defined as (1) any contract of insurance, annuity contract, or supplemental contract in each case, that has been issued by Indianapolis Life; (2) each certificate issued under any of Indianapolis Life's group annuity contracts as part of a custodial 403(b) or IRA arrangement, or as part of a non-ERISA 403(b) arrangement (the custodian or employer-sponsor holding such group annuity contracts shall not be considered the Eligible Member or owner); and (3) each certificate issued under the group plan established as a convenience by Indianapolis Life to provide life insurance to self-employed agents. The following policies and contracts are deemed not to be policies for purposes of the Plan of Conversion: (1) a certificate issued to an individual pursuant to a group life insurance policy (except as set forth in the preceding sentence); (2) a certificate issued under a group annuity contract (except as set forth in the preceding sentence); and (3) any reinsurance assumed on an indemnity basis (but certificates of assumption constitute policies).

(d) The term ''Eligible Member'' means a policyholder whose name appears on Indianapolis Life's records as the owner of one or more policies issued by Indianapolis Life on both the date the Board of Directors adopts the Plan of Conversion and the effective date of the Plan of Conversion.

(e) A ''supplemental contract'' is a policy or contract that has been issued pursuant to a Plan, qualified under section 401(a) of the Code, directly to a Plan participant.

(f) ''Policy Credits'' will consist of an increase in the dividend accumulation on an Indianapolis Life policy or contract (to which no sales, surrender, or similar charges will be applied), an increase in the accumulation account value of the Indianapolis Life policy or contract (to which no sales, surrender, or similar charge will be applied), an increase in the premium deposit fund under the Indianapolis Life policy or contract, an increase in the amount of the payments distributed under an Indianapolis Life policy or contract that is a supplemental contract, or an extension of the expiry date on an Indianapolis Life policy or contract that is in force as extended term life insurance pursuant to a non-forfeiture provision of a life insurance policy.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 25, 2001 at 66 FR 7802.

Written Comments

The Department received four written comments with respect to the proposed exemption. Two comments were submitted by Plan policyholders of Indianapolis Life. Of these comments, one policyholder said he was in favor of the Department's granting the proposed exemption while the other policyholder said he was opposed to the demutualization and preferred that Indianapolis Life's surplus earnings remain with the insurer in order to enhance the policyholder's existing insurance policies with Indianapolis Life. The third and fourth comments, which were submitted under separate cover by AmerUs Group and Indianapolis Life, expressed specific concerns about the proposed exemption in a number of areas.

The dissenting policyholder's comment, as well as the comments submitted by AmerUs Group and Indianapolis Life, are discussed below. Also discussed below are Indianapolis Life's response to the policyholder comment and the Department's responses to the areas of concern raised by both AmerUs Group and Indianapolis Life.

Policyholder Comment

As stated briefly above, one commenter states that he is opposed to Indianapolis Life's contemplated demutualization and maintains that Indianapolis Life should retain its current status as a mutual insurance company. The commenter indicates that he does not believe the exemption is in his best interest as grounds for his opposition. The commenter explains that he would prefer that Indianapolis Life's surplus remain with the insurer in order to make the policyholder's insurance contracts stronger.

In response, Indianapolis Life disagrees with the commenter's position. As explained in the exemption application, Indianapolis Life emphasizes that the demutualization will not in any way reduce the benefits, values, guarantees, or dividend eligibility of existing policies or contracts that it has issued. Instead, the Restructuring will result in significant benefits to Indianapolis Life policyholders. In this regard, Indianapolis Life states that the

Restructuring is designed to enhance its financial strength in access to capital through an affiliation with AmerUs Group that will result in a larger combined organization. Moreover, Indianapolis Life explains that access to capital markets will enable it to invest in new technology, improve customer service, develop new products and channels of distribution, and obtain more financial flexibility with which to maintain its ratings and financial stability. Finally, Indianapolis Life explains that the combination with AmerUs Group will create an opportunity to leverage its corporate capacity and strength and reduce expenses through economies of scale.

In addition, Indianapolis Life notes that, at the special policyholders meeting held earlier this week, over 96 percent of the policyholders who voted on the Restructuring voted to approve it. Because of the overwhelming policyholder vote and the reasons cited for the Restructuring, Indianapolis Life maintains that the view expressed by the commenter should not preclude the Department from granting the final exemption.

AmerUs Group's Comment

In its comment, AmerUs Group notes that the proposed Restructuring will involve both the combination of Indianapolis Life and AmerUs Group and the sponsored demutualization of Indianapolis Life. At the time the demutualization consideration is provided to Indianapolis Life policyholders, AmerUs Group explains that Indianapolis Life will become a second tier subsidiary of AmerUs Group. For this reason, AmerUs Group states that it is important that the exemption cover AmerUs Group and its affiliates as well as Indianapolis Life and its affiliates. However, AmerUs Group notes that the proposed exemption has been issued only under the name of Indianapolis Life. Therefore, AmerUs Group requests that the final exemption be issued in the names of both entities and that the final exemption contain a statement to the effect that the exemption covers the affiliates of both entities.

In response, the Department has modified the title of the exemption to include a reference to AmerUs Group to show that the exemption has been issued to AmerUs Group and Indianapolis Life, jointly. In addition, the Department has inserted a new footnote in the operative language which states that ''[f]or purposes of this exemption, all references to Indianapolis Life and its affiliates are deemed to include references to AmerUs Group and its affiliates.'' Further, the Department has revised Section III(a) of the final exemption by including a reference to AmerUs Group, the future parent of Indianapolis Life. Section III(a) of the final exemption now reads as follows:

> The term ''Indianapolis Life'' means Indianapolis Life Insurance Company and AmerUs Group Co., unless otherwise noted.

Indianapolis Life's Comments

Indianapolis Life had three major comments to the proposed exemption and a couple of minor comments that were in the nature of technical clarifications designed to enhance the accuracy of the description of the subject transactions and update factual information.

1. *Definition of Indianapolis Life.* Section III(a) of the proposed exemption defines ''Indianapolis Life'' to include ''any affiliate of Indianapolis Life, as defined in paragraph (b) of this Section III.'' Indianapolis Life requests that the reference to any affiliate be deleted from the definition and that the term ''affiliate'' as defined in paragraph (b) of Section III be added where needed throughout the exemption. Indianapolis Life notes that it is important to exclude affiliates from the definition of Indianapolis Life because the phrase ''Indianapolis Life and its affiliates'' is referred to separately in the exemption application, and many of the provisions from the application have been incorporated into the exemption. By lumping Indianapolis Life and its affiliates together in one defined term changes the meanings of many of those provisions, according to Indianapolis Life and may lead to an incongruous result.[3]

In addition, Indianapolis Life notes that there are several other places in the proposed exemption where a distinction between Indianapolis Life and its affiliates is important. Rather than identify all of those places, Indianapolis Life would prefer to remove ''affiliates'' from the definition of Indianapolis Life and refer separately to affiliates where needed in the proposed exemption. Indianapolis Life also explains that it conducted a word search through the proposed exemption and found only one instance where the term ''affiliates'' had been inappropriately used. The sentence in question appears in the last sentence in the third paragraph of Representation 23 of the proposed exemption in the Summary of Facts and Representations (the Summary). There, it is stated that ''U.S. Trust * * * derives less than one percent of its annual income from Indianapolis Life.'' Indianapolis Life believes that the sentence should be revised to state that ''U.S. Trust derives less than one percent of its annual income from Indianapolis Life and its affiliates.''

In response to Indianapolis Life's comment, the Department has already revised Section III(a) of the final exemption (as shown above) by deleting the term ''affiliates'' and by including a reference to AmerUs Group. The Department also notes Indianapolis Life's revision to Representation 23 of the Summary.

2. *Standard of Commissioner's Review.* Section II(b) of the proposed exemption recites the standard under which the Commissioner will review the Plan of Conversion under Indiana law. Indianapolis Life states that Indiana law requires the Commissioner to determine that the Plan of Conversion is not only fair and equitable but is ''reasonable'' to Eligible Members before approving the Plan of Conversion. Accordingly, Indianapolis Life requests that ''reasonable'' be added to the standard described in this subsection.

In response to this comment, the Department has revised Section II(b) of the final exemption to read as follows:

> The Commissioner reviews the terms and options that are provided to Eligible Members as part of such Commissioner's review of the Plan of Conversion, and the Commissioner approves the Plan of Conversion following a determination that such Plan is fair, reasonable and equitable to Eligible Members.

3. *Time Frame for Distributing Notice to Interested Persons.* In the section of the proposed exemption titled ''Notice to Interested Persons,'' Indianapolis Life suggests updating the paragraph contained therein to reflect that Indianapolis Life had provided interested persons with notice of the proposed exemption as well as to show the revised time frame for the comment period. Indianapolis Life states that it requested an 8 day extension of time to provide interested persons with notice of the proposed exemption in order to allow time for mailing its member information statement prior to the dissemination of the proposal. Indianapolis Life also notes that, at the Department's request, the extension of time was granted, provided an additional 3 days were factored into the comment period to allow for mailing

[3] For example, Indianapolis Life refers to the definition of ''Eligible Member'' in paragraph (d) of Section III. Without distinguishing between it and its affiliates, Indianapolis Life explains that this definition would incorrectly include persons with policies issued by the affiliates as members of Indianapolis Life. Policyholders of Indianapolis Life's affiliates are not members of Indianapolis Life, according to Indianapolis Life.

time and to ensure that interested persons would have at least 30 days in which to comment. With the increased time, Indianapolis Life explains that comments to the proposed exemption were then due to the Department by March 21, 2001.

4. *Technical Corrections to Sections I–III of the Proposed Exemption.* a. *Section I.* In the operative language of the proposed exemption, Section I states that AmerUs Group Co. is the parent of Indianapolis Life. However, Indianapolis Life explains that this entity will not become Indianapolis Life's parent until the effective date of Indianapolis Life's Restructuring. Also, in that same paragraph of the operative language, Indianapolis Life states that the reference to the term ''Eligible Member'' should refer to the definition of that term, as defined in Section III, because not all of Indianapolis Life's policyholders are Eligible Members of the insurer.

In response to this comment, the Department has revised part of the operative language of the final exemption to read as follows:

> The restrictions of section 406(a) of the Act (or ERISA) and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the receipt of common stock (Common Stock) issued by AmerUs Group, which will become the parent of Indianapolis Life, or (2) the receipt of cash (Cash) or policy credits (Policy Credits), by or on behalf of a policyowner of Indianapolis Life who is an eligible member, as defined in Section III (the Eligible Member), which is an employee benefit Plan, including an employee benefit plan that is sponsored by Indianapolis Life and its affiliates for their own employees (the Indianapolis Life Plans; collectively, the Plans), in exchange for such Eligible Member's membership interest in Indianapolis Life, in accordance with the terms of a plan of conversion (the Plan of Conversion), implemented under Indiana law.

b. *Section II(e).* Section II(e) of the proposed exemption states that after each Eligible Member entitled to receive shares of AmerUs Group Common Stock is allocated at least 12 shares, additional consideration will be allocated to Eligible Members owning participating policies based on actuarial formulas that take into account each participating policy's contribution to surplus and asset valuation reserve of Indianapolis Life, which formulas have been approved by the Commissioner.

Indianapolis Life requests that Section II(e) be revised to reflect the language in the Plan of Conversion and to correspond more closely with language used later in the proposed exemption to describe the process for determining the amount of additional consideration, if any, an Eligible Member will receive after being allocated the fixed component of consideration.

In response to this comment, the Department has revised Section II(e) of the final exemption to read as follows:

> After each Eligible Member entitled to receive shares of AmerUs Group Common Stock is allocated at least 12 shares, additional consideration is allocated to Eligible Members who own participating policies based on actuarial formulas that take into account the actuarial contribution, if any, that each Eligible Member's policy has made (and is expected to make) to Indianapolis Life's statutory surplus, which formulas are subject to review and approval by the Commissioner.

c. *Section II(f).* Subparagraph 4 of Section II(f) of the proposed exemption states that U.S. Trust, will vote shares of AmerUs Group Common Stock that are held by the IL Group Term Life Insurance Plan and dispose of any stock held by this plan which exceeds the limitation of section 407(a)(2) of the Act as reasonably as practicable, but in no event later than six months after the effective date of the plan of Conversion. The last paragraph of Representation 23 of the Summary contains a similar provision.

Indianapolis Life wishes to point out that U.S. Trust will vote all shares of AmerUs Group Common Stock that are held by any of the Indianapolis Life Plans and not just those held by the IL Group Term Life Insurance Plan. Therefore, the Department has revised subparagraph (4) of Section II(f) of the final exemption to read as follows:

> Votes shares of AmerUs Group Common Stock held by all Indianapolis Life Plans, including the IL Group Term Life Insurance Plan, and disposes of such stock held by the IL Group Term Life Insurance Plan exceeding the limitation of section 407(a)(2) of the Act as soon as reasonably practicable, but in no event later than six months after the effective date of the Plan of Conversion.

In addition, the Department notes a corresponding revision to the last paragraph of Representation 23 of the Summary.

d. *Section III(c).* Section III(c) of the proposed exemption defines the term ''policy,'' to include, in part, a certificate issued under a group plan established as a convenience by Indianapolis Life to provide life insurance to self-employed agents and under which all premiums have been paid by such agents. At the Commissioner's request, Indianapolis Life states that the Plan of Conversion has been revised to delete the phrase ''and under which all premiums were paid by such agents'' from the description of the certificates. Therefore, in response to this comment, the Department has revised part of Section III(c) of the final exemption to read as follows:

> * * * each certificate issued under the group plan established as a convenience by Indianapolis Life to provide life insurance to self-employed agents.

e. *Section III(e).* Section III(e) of the proposed exemption defines the term ''supplemental contract'' as a policy or contract that has been issued pursuant to a Plan participant. Indianapolis Life states that the definition of ''supplemental contract'' should only include contracts issued to Plan participants by Plans that are qualified under section 401(a) of the Code and do not include contracts issued by a Plan that is not qualified under Code section 401(a). Therefore, the Department has revised Section III(e) of the final exemption to read as follows:

> A ''supplemental contract'' is a policy or contract that has been issued pursuant to a Plan, qualified under section section 401(a) of the Code, directly to a Plan participant.

5. *Technical Corrections to the Summary.* The Department notes the following clarifications made to the Summary by Indianapolis Life:

a. *Representation 1.* Representation 1 states that Indianapolis Life's rating by Fitch is ''AA'' whereas its correct rating is ''AA−.''

b. *Representation 3.* In the first paragraph, Representation 3 states that Indianapolis Life's principal products include individual retirement accounts. However, Indianapolis Life wishes to point out that such products include ''annuities'' rather than ''accounts'' covered under section 408 of the Code.

c. *Representation 4(a).* Representation 4(a) sets forth the total assets of the Indianapolis Life Insurance Company Salary Reduction Plan, Plan No. 007. Indianapolis Life wishes to clarify that the asset and participants totals for this Plan were reported as of June 30, 2000 rather than June 20, 2000.

For further information regarding the comments and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10930) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200

Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

For Further Information Contact

Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

UAM Fund Services, Inc., Located in Boston, MA

[Prohibited Transaction Exemption 2001–18; Application No. D–10938]

Exemption

Section I. Transactions

The restrictions of section 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply effective April 30, 2001 to (i) the acquisition of shares of one or more of the UAM Funds (Shares) by a Plan for which a Fund Adviser serves as investment manager, through the in-kind exchange of the Plan's assets held in one or more separate accounts (each, an Account) maintained by a Fund Adviser, and (ii) the redemption of Shares by a Plan for which a Fund Adviser serves as investment manager, through the in-kind exchange of assets from one or more UAM Funds to one or more Account(s), provided that the conditions set forth in Section II below are met.

Section II. Conditions

(a) The Fund Adviser is not an employer of employees covered by the Plan.

(b) The Plan does not pay sales commissions, redemption fees, or other fees in connection with such acquisition or redemption.

(c) The assets transferred pursuant to such acquisition or redemption consist entirely of cash and Transferable Securities.

(d) In the case of an acquisition, the Plan receives Shares of the Funds that have a total Net Asset Value equal to the value of the Plan's assets exchanged for such Shares on the date of the transfer, as determined (with respect to Transferable Securities) in a single valuation performed in the same manner, at the close of the same business day, in accordance with the procedures set forth in Rule 17a–7 under the Investment Company Act of 1940 (the 1940 Act), as amended from time to time, or any successor rule, regulation, or similar pronouncement (Rule 17a–7) (using sources independent of the UAM Funds and the Fund Adviser) and the procedures established by the UAM Funds pursuant to Rule 17a–7.

(e) In the case of a redemption, with respect to Transferable Securities, the Plan receives a pro rata portion of the securities of the UAM Fund that is equal in value to the number of Shares redeemed for such securities, as determined in a single valuation performed in the same manner, at the close of the same business day, in accordance with the procedures set forth in Rule 17a–7 (using sources independent of the UAM Funds and the Fund Adviser). With respect to all other assets, the Plan receives cash equal to its pro rata share of the fair market value of such assets, determined in accordance with Rule 17a–7 of the 1940 Act and the valuation policies and procedures of the UAM Fund.

(f) The price that is paid or received by the Plan for Shares is the Net Asset Value per Share at the time of the transaction and is the same price for the Shares that would have been paid or received by any other investor for Shares of the same class at such time.

(g) Prior to the in-kind acquisition or redemption, an Independent Fiduciary with respect to the Plan receives full and detailed written disclosure of information regarding the in-kind acquisition or redemption, including, without limitation, the following:

(i) A current prospectus for each UAM Fund to or from which Plan assets may be transferred (updated as necessary to reflect the investment mix of the UAM Fund at the time of the in-kind acquisition or redemption);

(ii) A statement describing the rate of fees for investment advisory and other services to be charged to and paid by the Plan (and by the UAM Funds in which the Plan invests) to the Fund Adviser, including the nature and extent of any differential between the rates of the fees paid by the UAM Funds and the rates of the fees otherwise payable by the Plan to the Fund Adviser;

(iii) A statement of the reasons why the Fund Adviser may consider the in-kind acquisition or redemption to be appropriate for the Plan;

(iv) A statement as to whether there are any limitations on the Fund Adviser with respect to which Plan assets may be invested in Shares of the UAM Funds and, if so, the nature of such limitations;

(v) The identity of all securities that are deemed suitable by the Fund Adviser for transfer to the UAM Funds (in the case of an acquisition) or from the UAM Funds (in the case of a redemption);

(vi) The identity of all such securities that will be valued in accordance with the procedures set forth in Rule 17a–7(b)(4) under the 1940 Act; and

(vii) Copies of the proposed and final exemptions pertaining to the exemptive relief provided herein for in-kind acquisitions and redemptions.

(h) On the basis of such disclosures, the Independent Fiduciary, consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Subtitle B of Title I of the Act, (i) makes a determination as to whether the terms of the in-kind acquisition or redemption are fair to the participants of the Plan and are comparable to and no less favorable than terms that would be reached at arms' length between unaffiliated parties, and that the in-kind acquisition or redemption (as opposed to an acquisition or redemption for cash) is in the best interest of the Plan and its participants and beneficiaries, and (ii) gives prior written approval for the in-kind acquisition or redemption, including agreement as to the date on which the in-kind acquisition or redemption will take place.

(i) The authorization by the Independent Fiduciary is terminable at will without penalty to the Plan at any time prior to the date of acquisition or redemption, and any such termination will be effected by the close of the business day following the date of receipt by the Fund Adviser, either by mail, hand delivery, facsimile, or other available means of written or electronic communication at the option of the Independent Fiduciary, of any written notice of termination.

(j) In the case of an acquisition, all of the Plan's assets held in an Account (other than Shares already held in the Account) are transferred in-kind to one or more UAM Funds in exchange for Shares, except that any Plan assets in the Account which are not suitable for acquisition by the UAM Fund shall be liquidated as soon as reasonably practicable, and the cash proceeds shall be invested directly in Shares.

(k) The Fund Adviser sends to the Independent Fiduciary, by regular mail or personal delivery, the following information:

(i) No later than 30 days after the completion of the in-kind transfer, a written confirmation which contains:

(A) The identity of each Transferable Security that was valued for purposes of the in-kind transfer in accordance with Rule 17a–7;

(B) The current market price, as of the date of the in-kind transfer, of each such Transferable Security; and

(C) The identity of each pricing service or market-maker consulted in determining the current market price of such Transferable Securities.

(ii) No later than 105 days after each in-kind transfer, a written confirmation which contains:

(A) In the case of an in-kind acquisition, the number of Shares in the UAM Funds that are held by the Plan immediately following the acquisition, the related per-Share Net Asset Value, and the total dollar value of such Shares.

(B) In the case of an in-kind redemption, the number of Shares in the UAM Funds that were held by the Plan immediately prior to the redemption, the related per-Share Net Asset Value, and the total dollar value of such Shares.

(l) With respect to each of the UAM Funds in which a Plan continues to hold Shares acquired in connection with an in-kind acquisition, the Fund Adviser provides the Independent Fiduciary with:

(i) A copy of an updated prospectus of such UAM Fund, at least annually; and

(ii) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other statement) containing a description of all fees paid by the UAM Fund to the Fund Adviser.

(m) The combined total of all fees received by the Fund Adviser for the provision of services to the Plan, and in connection with the provision of services to the UAM Funds in which the Plan holds shares purchased in connection with an in-kind exchange, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(n) The Fund Adviser does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the acquisition or redemption.

(o) All other dealings between the Plan and the UAM Funds are on a basis no less favorable to the Plan than dealings between the UAM Funds and other shareholders holding the same Shares of the same class as the Plan.

(p) The Fund Adviser maintains for a period of six years the records necessary to enable the persons described in paragraph (q) below to determine whether the conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Fund Adviser, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Fund Adviser shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (q) below.

(q) (1) Notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (p) above are unconditionally available at their customary locations for examination during normal business hours by (i) any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service; (ii) any fiduciary of the Plan who has authority to acquire or dispose of Shares of the UAM Funds owned by the Plan, or any duly authorized employee or representative of such fiduciary; and (iii) any participant or beneficiary of the Plan or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (q)(1)(ii) and (iii) above shall be authorized to examine trade secrets of the UAM Funds or the Fund Adviser, or commercial or financial information which is privileged or confidential.

Section III. Availability of Prohibited Transaction Exemption 77–4 (PTE 77–4)

Any in-kind acquisition of Shares of the UAM Funds that complies with the conditions of Section II of this exemption shall be treated as a ''purchase or sale'' of shares of a registered, open-end investment company for purposes of PTE 77–4, 42 FR 18732 (April 8, 1977), and shall be deemed to have satisfied paragraphs (a), (d) and (e) of section II of that exemption.

Section IV. Definitions

For purposes of this exemption:

(a) The term ''UAM'' means United Asset Management Corporation, a Delaware corporation with headquarters in Boston, Massachusetts, and any affiliate thereof;

(b) The term ''UAM Funds'' means UAM Funds Inc., UAM Funds, Inc. II, and UAM Funds Trust, each of which is an open-end investment company registered under the 1940 Act, or any portfolio or group of portfolios thereof, for which UAM or a Fund Advisor serves as investment advisor and may provide other services.

(c) The term ''Fund Adviser'' means (i) any affiliate of UAM which serves as an investment adviser to a UAM Fund, and (ii) any former affiliate of UAM which was divested within 12 months of the acquisition of UAM by Old Mutual, and which serves as an investment adviser to a UAM Fund pursuant to a contractual relationship with UAM, and (iii) any affiliate of an investment adviser identified in subsections (i) or (ii).

(d) An ''affiliate'' of a person includes:

(i) Any person directly or indirectly through one or more intermediaries controlling, controlled by, or under common control with the person;

(ii) Any officer, director, employee, relative, or partner in any such person;

(iii) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(e) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, sister, or spouse of a brother or a sister.

(g) The term ''Plan'' includes any pension, profit sharing or stock bonus plan qualified under section 401(a) of the Code, individual retirement account, simplified employee pension plan, custodial account plans as described in section 403(b) of the Code, or savings incentive match plans for employees.

(h) The term ''Independent Fiduciary'' means the Plan sponsor or other fiduciary of a Plan who is independent of and unrelated to UAM or the Fund Adviser. For purposes of this exemption, the Independent Fiduciary will not be deemed to be independent of and unrelated to UAM or the Fund Adviser if:

(i) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with UAM or the Fund Adviser;

(ii) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner, or employee of UAM or the Fund Adviser (or is a relative of such persons); or

(iii) Such fiduciary directly or indirectly receives compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

(i) The term ''Transferable Securities'' shall mean securities (1) for which market quotations are readily available; and (2) which are not in any of the following categories: (i) securities which may not be publicly offered or sold

without registration under the Securities Act of 1933 (the 1933 Act); (ii) securities issued by entities in foreign countries which (A) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the UAM Funds, or (B) permit transfers of ownership or securities to be effected only by transactions conducted on a local stock exchange; (iii) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions, certificates of deposit and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities, or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (iv) cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements); and (v) other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable).

(j) The term ''Net Asset Value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the UAM Fund's prospectus and statement of additional information, and other assets belonging to the UAM Fund less the liabilities charged to such UAM Fund, by the number of outstanding Shares.

Effective Date

This exemption is effective for transactions occurring on or after April 30, 2001.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 15, 2001 at 66 FR 10529.

Modification

The exemption as proposed contained no specific effective date. In this regard, the proposed exemption would have been effective as of the date the final exemption was granted and published in the **Federal Register**. However, after the exemption was proposed, the applicant requested that the final exemption be made effective as of April 30, 2001, to cover certain transactions occurring on or after that date. Therefore, the final exemption has been modified accordingly.

FOR FURTHER INFORMATION CONTACT Karen Lloyd of the Department, telephone (202) 219–8194. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 1st day of May, 2001.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 01–11305 Filed 5–3–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date/Time: May 30–31, 2001; 8:00 am-5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Fred G. Heineken, Program Director, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–7944.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11288 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (#1110).

Date/Time: May 9, 10, 11, 2001; 8:30 a.m.–5 p.m.

Place: Room 630, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part Closed.

Contact Person: Dr. Jane Silverthorne and Dr. Chris Cullis, Program Directors for Plant Genome Research Program, Room 615, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: 703–292–8470.

Purpose of Meeting: To carry out committee of visitors review, including program evaluation and GPRA assessments.

Agenda: Open Sessions—Introduction, program officers discussions, Fastlane discussion.

Closed Sessions—Proposals review, recommendations formulation, COV report drafting.

Reason for Closing: During the closed session, committee will review proposal

actions that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11286 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).

Date/Time: May 17–18, 2001; 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rm. 360, Arlington, VA

Type of Meeting: Closed.

Contact Persons: Drs. Chaun F. Chen & Thomas W. Chapman, Program Directors, Division of Chemical & Transport Systems, NSF, 4201 Wilson Blvd. Room 525, Arlington, VA 22230. (703) 292–8371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY 2001 Major Research Instrumentation (MRI) Panel of proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11289 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experiment and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental & Integrative Activities (1193).

Date/Time: June 11, 2001; 8:30 a.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Caroline Wardle, CISE Information Technology Workforce (ITWF), Experimental and Integrative Activities, Room 1160, National Science Foundation, 4201 Wilson Boulevard, VA 22230 Telephone: (703) 292–8980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Information Technology Workforce (ITWF) proposals submitted in response to the program announcement (NSF 01–33).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11291 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Geosciences (1756).

Date/Time: May 21–24, 2001; 8:30 a.m. to 5:30 p.m.

Place: Room 515 Stafford-II, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Ms. Jewel Prendeville, Staff Associate for Diversity and Education, Office of the Assistant Director, Room 705, National Science Foundation, Arlington, VA 22230, (703) 292–8500.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate GeoDiversity proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11290 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel for Geosciences (1756).

Date/Time: May 21–25, 2001; 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Mr. Lawrence Clark, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the proposals submitted to the Ocean Science Research Programs as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt

under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11292 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

All of these meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will no longer be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF web-site: *www.nsf.gov/home/pubinfo/advisory.htm*. This information may also be requested by telephoning 703/292–8182.

Dated: May 1, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–11287 Filed 5–3–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[50–301]

Nuclear Management Company, LLC Duane Arnold Energy Center; Exemption

1.0 Background

Nuclear Management Company, LLC (NMC, the licensee) is the holder of Facility Operating License No. DPR–49 which authorizes operation of the Duane Arnold Energy Center (DAEC). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a boiling water reactor located on NMC's DAEC site, which is located in Linn County, Iowa.

2.0 Purpose

Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix G requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, appendix G states that, ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the P–T limits must meet the safety margin requirements specified in the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Appendix G.

To address provisions of the proposed amendments to the technical specification (TS) P–T limits, the licensee requested in its submittal dated October 16, 2000, that the staff exempt DAEC from application of specific requirements of 10 CFR part 50, § 50.60(a) and 10 CFR part 50, Appendix G, and substitute use of ASME Code Case N–640. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits. The proposed action is in accordance with the licensee's application for exemption contained in the October 16, 2000, submittal, and is needed to support the TS amendment request that is contained in the same submittal. The proposed amendment will revise the P–T limits for heatup, cooldown, and inservice test limitations for the reactor coolant system (RCS) to 25 and 32 effective full power years (EFPYs).

Code Case N–640

The licensee has proposed an exemption to allow use of ASME Code Case N–640 in conjunction with ASME Section XI, 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to determine that the P–T limits meet the underlying intent of the Nuclear Regulatory Commission (NRC) regulations.

The proposed amendment to revise the P–T limits for DAEC relies in part on the requested exemption. These revised P–T limits have been developed using the K_{Ic} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A–2200–1, in lieu of the K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness. The other margins involved with the ASME Section XI, Appendix G process of determining P–T limit curves remain unchanged.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits curve is more technically correct than the K_{Ia} curve. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The licensee has determined that the use of the initial conservatism of the K_{Ia} curve when the curve was codified in 1974 was justified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations. The operating window through which the operator heats up and cools down the RCS is determined by the difference between the maximum allowable pressure determined by Appendix G of ASME Section XI, and the minimum required pressure for the reactor coolant pump seals adjusted for instrument uncertainties.

Since the RCS P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME Section XI, Appendix G procedure, continued operation of DAEC with these P–T curves without the relief provided by ASME Code Case N–640 may unnecessarily restrict the P–

T operating window, especially at low temperature conditions. The operating window becomes more restrictive with continued reactor vessel service. Implementation of the proposed P–T curves, as allowed by ASME Code Case N–640, does not significantly reduce the margin of safety. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

In summary, the ASME Section XI, Appendix G procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by application of ASME Code Case N–640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The staff accepts the licensee's determination that an exemption would be required to approve the use of Code Case N–640. The staff examined the licensee's rationale to support the exemption request and concurred that the use of the code case would also meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR part 50, Appendix G; Appendix G of the ASME Code; and regulatory guide (RG) 1.99, Revision 2, the staff concluded that application of the code case as described would provide an adequate margin of safety against brittle failure of the RPV. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Case N–640 may be used to revise the P–T limits for the DAEC RCS.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants NMC an exemption from the requirements of 10 CFR part 50, § 50.60(a) and 10 CFR part 50, Appendix G, for the DAEC.

Pursuant to 10 CFR 51.32, an environmental assessment and finding of no significant impact has been prepared and published in the **Federal Register** (66 FR 20692). Accordingly, based upon the environmental assessment, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 27th day of April, 2001.

For the Nuclear Regulatory Commission.

Cynthia A. Carpenter,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–11277 Filed 5–3–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8964]

Rio Algom Mining Corp.

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; Notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to renew NRC Source Material License SUA–1548 to authorize the licensee, Rio Algom Mining Corporation (RAMC), to continue commercial operations of its in situ leach (ISL) Rio Algom Smith Ranch Uranium Recovery Project in Converse County, Wyoming. This license currently authorizes RAMC to receive, acquire, possess, and transfer uranium at the Rio Algom Smith Ranch Project, which is located approximately 17 miles (27 Kilometers) Northeast of Glenrock, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of RAMC renewal request, in accordance with the requirements of 10 CFR part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Lusher, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T8–A33, Washington, DC 20555. Telephone 301/415–7694.

SUPPLEMENTARY INFORMATION:

Background

At the Rio Algom Smith Ranch Facility, ISL uranium recovery method involves: (1) The injection of native groundwater, with added sodium carbonate/bicarbonate and oxygen or hydrogen peroxide, into uranium-bearing orebody through injection wells; (2) the chemical mobilization of the uranium through oxidation and then complexation with the carbonate species; and (3) the extraction of the uranium-bearing solution from the subsurface through a pattern of pumping wells. The uranium is separated from the leach solution by conventional ion exchange methods in the processing facility. The resulting uranium-poor solution is recharged with carbonate and oxygen and returned to the leaching zone for additional uranium recovery. This cycle continues until the ore zone is depleted or recovery of uranium is no longer economically feasible.

The recovered uranium solution is processed further by using ammonia or hydrogen peroxide to precipitate the uranium into a slurry. The resulting slurry is thickened by gravity settling, and then washed and de-watered in a filter press to about 50 percent solids. The filter press solids (cake) are then dried in a natural gas heated oil vacuum dryer, to produce uranium oxide, which is commonly known as ''yellowcake.'' The dried yellowcake is packaged in 55-gallon (208-liter) steel drums for storage and eventual shipment to a fuel processing facility.

RAMC conducts uranium recovery operations within designated areas (wellfield units) of the Rio Algom Smith Ranch site. These wellfield units consist of about 50 acres (20 hectars) in size. A number of well patterns are installed in each wellfield unit, with each pattern typically including four injection wells laid out in a roughly rectangular shape and one centrally-located pumping (production) well. Currently, RAMC is conducting uranium recovery operations in three wellfield units.

Summary of the Environmental Assessment

The NRC staff performed an appraisal of the environmental impacts associated with the continued operation of the Rio Algom Smith Ranch ISL facility, in accordance with 10 CFR part 51, Licensing and Regulatory Policy Procedures for Environmental Protection. In conducting its appraisal, the NRC staff considered the following information: (1) RAMC's license renewal application, as amended; (2) previous environmental evaluations of the RAMC facility; (3) RAMC's amendment request submitted subsequent to its renewal application, and NRC staff approval of such request; (4) data contained in required environmental monitoring reports; (5) results of NRC staff site visits and inspections of the RAMC facility; and (6) consultations with the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, and the Wyoming State Historic Preservation Officer. The results of the staff's appraisal are documented in an Environmental Assessment. The safety aspects for the continued operation are discussed separately in a Safety Evaluation Report (SER).

The license renewal would authorize RAMC to continue operating the Rio Algom Smith Ranch ISL facility, such that the plant and satellite facilities throughput does not exceed a flow rate of 12,000 gallons (45,420 liters) per minute, exclusive of the flow involved in restoring the depleted wellfield units. Annual yellowcake production will not be authorized to exceed 3.5 million pounds (1,587,565 kilograms).

All conditions in the renewal license and commitments presented in the renewal application are subject to NRC inspection. Violation of the license may result in enforcement action.

Conclusions

The NRC staff has re-examined actual and potential impacts associated with continued commercial operation of the Rio Algom Smith Ranch ISL facility, and has determined that the renewal of Source Material License SUA–1548 will: (1) Be consistent with requirements of 10 CFR Part 40, (2) not be inimical to the public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. The proposed ground water monitoring program is sufficient to detect excursions (vertical and horizontal) of recovery solutions. Furthermore, aquifer testing and previous operations indicate that the production zone is adequately confined, thereby assuring hydrological control of recovery solutions;

2. Liquid process waste will be disposed in accordance with approved waste disposal options. Monitoring programs are in place to ensure appropriate operation of the deep disposal wells and to detect potential leakage from the evaporation ponds;

3. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents from facility operation have been and are expected to remain below the regulatory limits;

4. All radioactive waste generated by facility operations will be disposed offsite at a licensed 11e.(2) byproduct disposal site;

5. Groundwater impacted by recovery operations will be restored to baseline conditions on a wellfield unit average, as a primary goal. If baseline conditions cannot be reasonably achieved, the R&D operations have demonstrated that groundwater can be restored to applicable class-of-use standards; and

6. Because the staff has determined that there will be no significant impacts associated with approval of the license renewal, there can be no disproportionally high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of Environmental Justice concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Revision 1, is not warranted.

Alternatives to the Proposed Action

The proposed action is to renew NRC Source Material License SUA–1548, for continued operation of the Rio Algom Smith Ranch ISL facility as requested by RAMC. Therefore, the principal alternatives available to NRC are to:

(1) Renew the license with such conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

(2) Renew the license with such conditions as are considered necessary or appropriate to protect public health and safety and the environment, but not allow RAMC to expand its operations beyond those previously approved; or

(3) Deny the renewal of the license.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of RAMC's future operations or the denial of the license renewal. Additionally, in the SER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for license issuance, specified in 10 CFR part 40, § 40.32, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA–1548, On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or (2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff. In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Rio Algom Mining Corporation, 6305 Waterford Blvd, Suite 325, Oklahoma City, OK 73118;

(2) The NRC staff, by delivery to the General Consel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 30th day of April 2001.

For the Nuclear Regulatory Commission

Daniel M. Gillen,

Acting Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–11278 Filed 5–3–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Commission Briefing

AGENCY: Postal Rate Commission.

ACTION: Notice of commission briefing.

SUMMARY: The Commission's Office of the Consumer Advocate will host a briefing on two federal laws relating to electronic signatures: the Uniform Electronic Transactions Act and the Electronic Signature in Global and National Commerce Act. Mr. R. David Whitaker will give the briefing.

DATES: Thursday, May 24, 2001, at 10:30 a.m.

ADDRESSES: The briefing will be held in the Postal Rate Commission's hearing room, 1333 H St. NW., Suite 300, Washington, DC 20268–0001.

FOR MORE INFORMATION CONTACT: Stephen L.Sharfman, General Counsel, 202–789–6820.

Authority: 39 CFR 3002.7(a).

Dated: April 30, 2001.

Steven W. Williams,

Acting Secretary.

[FR Doc. 01–11200 Filed 5–3–01; 8:45 am]

BILLING CODE 7710–FW–M

POSTAL RATE COMMISSION

Tour of Printing and Distribution Facilities

AGENCY: Postal Rate Commission.

ACTION: Notice of commission visit.

SUMMARY: In early May, Postal Rate Commissioners and staff will tour facilities of CTC Corp. and Quebecor Inc. (both in Chicago, IL) and the United Parcel Service (UPS) international air hub (in Louisville, KY). The Quebecor visit will include the logistics center, consolidation facility, and bindery.

DATES: The visit is scheduled as follows:

May 7 (p.m.): CTC Corp.
May 8 (a.m.): Quebecor Inc.
May 8 (p.m.): United Parcel Service

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, 202–789–6820.

Dated: May 1, 2001.

Garry J. Sikora,

Acting Secretary.

[FR Doc. 01–11271 Filed 5–3–01; 8:45 am]

BILLING CODE 7710–FW–M

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb note, Title I of Public Law 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 9:00 a.m. to 11:00 a.m. on Wednesday, May 23, 2001, at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to: (1) Receive staff reports regarding environmental remediation, wildlife at the Presidio, and historic building rehabilitation; (2) receive a staff report and take action regarding the Vegetation Management Program; and (3) receive public comment in accordance with the Trust's Public Outreach Policy.

Time: The meeting will be held from 9:00 a.m. to 11:00 a.m. on Wednesday, May 23, 2001.

ADDRESSES: The meeting will be held at the Officers' Club, 50 Moraga Avenue, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Craig Middleton, Deputy Director for Operations and Governmental Affairs, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: April 30, 2001.

Karen A. Cook,

General Counsel.

[FR Doc. 01–11222 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–4R–U

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection: Verification of Supplemental Annuity.

Under Section 2(b) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) pays supplemental annuities to qualified RRB employee annuitants. A supplemental annuity, which is computed according to section 3(e) of the RRA, can be paid at age 60 if the employee has at least 30 years of creditable railroad service or at age 65 if the employee had 25–29 years of railroad service. In addition to 25 years of service, a ''current connection'' with the railroad industry is required. Eligibility is further limited to

employees who had at least one month of rail service before October 1981 and were awarded regular annuities after June 1966. Further, if an employee's 65th birthday was prior to September 2, 1981, he or she must not have worked in rail service after certain closing dates (generally the last day of the month following the month in which age 65 is attained).

The supplemental annuities paid by the RRB are financed entirely by the railroad employers under 26 USC of 3221 of the Internal Revenue Code. Under 26 USC 3221(c) every employer must pay a ''work hour'' tax at such a rate as to make available certain funds for the RRB to pay supplemental annuities at the level provided under section 3(e) of the RRA, unless the exception in 26 USC 3221(d) applies.

Also, under 26 U.S.C. 3221(c) a Supplemental Annuity tax credit is due to the railroad for any month for which an employee's RRB Supplemental Annuity is reduced under Section 2(h)(2) of the RRA for an employer private pension approved by the RRB's Bureau of Law, when either the employer pension was not established pursuant to a collective bargaining agreement; or, if the employer pension was established pursuant to a supplemental annuity tax credit allowed is equal (dollar for dollar) to the amount of the reduction in the employee's supplemental annuity for the private pension.

Section 26 USC 3221(d) of the Internal Revenue Code exempts certain employers from the ''work hour tax'' when the private pension plan, approved by the RRB's Bureau of Law, that was established pursuant to a collective bargaining (union) agreement and the employee was a member of the collective bargaining unit. Instead a supplemental annuity tax liability is billed to the employer as a ''special supplemental tax'' under any month for which the employee is paid a RRB supplemental annuity. The ''special supplemental tax'' is equal to the amount of the supplemental annuity being paid, plus a percentage added to reimburse the RRB for administrative cost.

The RRB currently requires the following information from railroad employers to calculate supplemental annuities. (a) The current status of railroad employer pension plans and whether such an employer pension plan causes a reduction to the supplemental annuity; (b) the amount of the employer private pension being paid to the employee; (c) whether or not the railroad employer pension is based on a collective bargaining agreement, (d) whether or not the employee made contributions to the pension; and (e) whether the employer pension plan continues when the employer status under the RRA changes. The requirements for eligibility to a supplemental annuity and a description of an employer pension are prescribed in 20 CFR 216.40–216.42. The computation of the supplemental annuity is prescribed in 20 CFR 227. Evidence requirements for a deemed current connection for a supplemental annuity are prescribed in 20 CFR 216.15.

The RRB currently utilizes Form(s) G–88p (Employer's Supplemental Pension Report), G–88r (Request for Information About New or Revised Pension Plan), and G–88r.1 (Request for Additional Information about Employer Pension Plan in Case of Change of Employer Status or Termination of Pension Plan), to obtain the necessary information from railroad employers. (OMB approved 3220–0089).

In order to ensure that the supplemental annuity is correctly adjusted and the supplemental annuity tax credits or supplemental annuity tax liabilities are correct, the RRB proposes the implementation of a new information collection consisting of two new forms, Form G–88p.1, Request for Verification of Employer Pension Information, and Form G–88p.2, Verification of Employer Collective Bargaining Pension Information.

The completion time for proposed Form G–88p.1 and G–88p.2 is estimated at between 10 to 120 minutes. The RRB estimates that about 75 G–88p.1's and 15 G–88p.2's will be completed annually. One response is requested of each respondent. Completion is mandatory.

FOR FURTHER INFORMATION CONTACT: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–11285 Filed 5–3–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27387]

Filings Under the Public Utility Holding Company, Act of 1935, as Amended (''Act'')

April 27, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 22, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 22, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

WGL Holdings, Inc., et al. (70–9653)

WGL Holdings, Inc. (''WGL Holdings''), a registered holding company, its gas utility subsidiary, Washington Gas Light Company, and WGL Holdings' nonutility subsidiary companies, Hampshire Gas Company, Crab Run Gas Company, Washington Gas Resources Corp., and Primary Investors LLC (collectively, ''Applicants''), all located at 1100 H Street, NW., Washington, DC 20080, have filed a post-effective amendment to an application-declaration filed under sections 6(a), 7, 9(a), 10, 11, 12(b), 12(c), 12, 32, and 33 of the Act and rules 45, 46, 47, 54, and 80–92 under the Act.

By orders dated October 13, 2000, and November 13, 2000 (Holding Co. Act Release Nos. 27253 and 27276, respectively) (''Prior Orders''), the Commission, through March 31, 2004 (''Authorization Period''), authorized

certain financing activities related to WGL Holdings and its subsidiaries, including the establishment of a system money pool (the ''Money Pool''). The Prior Orders permitted the addition of new subsidiaries as lenders to the Money Pool; however, Commission approval was required for the addition of new borrowers. In addition, the Prior Orders authorized WGL Holdings to invest not more than $100 million (''Investment Limit'') in existing or newly formed, direct or indirect nonutility subsidiaries that are engaged in the business of providing financing for purchases of energy-related equipment, goods, or services (''Consumer Finance Subsidiaries'').

In accordance with the Prior Orders, WGL Holdings formed a new Consumer Finance Subsidiary, Washington Gas Credit Corp. (''WGCC''). Applicants now request that the Commission authorize WGCC's participation in the Money Pool as a borrower. Applicants state that all the borrowings of WGCC will count against the Investment Limit. Further, Applicants state that the addition of WGCC to the Money Pool requires no changes to the terms and conditions of the System Money Pool Agreement filed as an exhibit to the application-declaration in this matter.

Cascade Investment, L.L.C., and William H. Gates III (70–9865)

Cascade Investment, L.L.C. (''Cascade''), a limited liability company formed under the laws of the State of Washington, 2365 Carillon Point, Kirkland, Washington 98033, and its sole member, William H. Gates III, One Microsoft Way, Redmond, Washington, 98033 (''Mr. Gates,'' and together with Cascade, ''Applicants''), have filed an application under sections 9(a)(2) and 10 of the Act.

Applicants request approval of their acquisition of 5% or more, but less than 10%, of the outstanding voting securities of Avista Corporation (''Avista''), Otter Tail Power Company (''Otter Tail''). and Public Service Company of New Mexico (''PSNM''), each of which is a ''public-utility company'' as defined in section 2(a)(5) of the Act. Applicants state that neither is an ''affiliate,'' as defined in section 2(a)(11)(A) of the Act, of any other public-utility company.

Mr. Gates is Chairman of the Board, Chief Software Architect, and a major shareholder of Microsoft Corporation, which develops, manufactures, licenses and supports software products for business and person applications. Applicants state that Cascade was formed in 1995 to make and hold certain investments for Mr. Gates, that Cascade invests in and holds the securities of numerous publicly and privately held companies, and that Cascade does not have any active business operations of its own.

Cascade currently holds 2,887,500 shares (or approximately 6.12%) of the outstanding common stock of Avista, 1,399,500 shares (or approximately 5.87%) of the outstanding common stock of Otter Tail, and 2,344,500 shares (or approximately 5.99%) of the outstanding common stock of PSNM. Applicants state that these shares were purchased on the open market solely for the purpose of investment, that they have filed joint statements on Schedule 13G under the Securities Exchange Act of 1934 with respect to each of these three investments, and that neither Cascade nor Gates has any management arrangement with any of these companies.

Avista, a Washington corporation, provides electricity and natural gas distribution and transmission services in a 26,000 square mile area in eastern Washington and northern Idaho with a population of approximately 835,000 and natural gas distribution service in a 4,000 square mile area in northeast and southwest Oregon and in the South Lake Tahoe region of California with a population of approximately 500,000. At December 31, 1999, Avista provided retail electric service to approximately 309,000 customers and retail natural gas service to approximately 269,000 customers. Avista is subject to regulation as to retail rates by the public utilities commissions of Washington, Idaho, Oregon, and California and as to wholesale electric rates by the Federal Energy Regulatory Commission (''FERC'').

Otter Tail, a Minnesota corporation, produces, transmits, distributes and sells electric energy in a predominantly agricultural area in western Minnesota, eastern North Dakota and northeastern South Dakota. The population in this service area is approximately 230,000. Otter Tail is subject to regulation as to retail rates by the public utilities commissions in Minnesota, North Dakota and South Dakota and as to wholesale electric rates by the FERC.

PSNM, a New Mexico corporation, generates, transmits, distributes and sells electricity and transmits, distributes and sells natural gas in parts of New Mexico, including the cities of Albuquerque and Santa Fe. As of December 31, 1999, PSNM provided public utility service to approximately 361,000 retail electric customers and 426,000 retail gas customers. PSNM is subject to regulation as to retail rates by the New Mexico Public Regulation Commission and as to wholesale electric rates by the FERC.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11207 Filed 5–3–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44228; File No. SR–NASD–2001–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to a Qualification Examination for a New Limited Registration Category: Limited Representative-Private Securities Offerings (Series 82)

April 27, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is filing with the Commission the examination specifications and study outline for the Limited Representative-Private Securities Offerings (Series 82) examination program. The Series 82

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, Inc. from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000.

examination program is proposed in connection with a proposed change to NASD Rule 1032 [5] to implement section 203 of the Gramm-Leach-Bliley Act of 1999 (''GLBA''),[6] which requires the NASD, as a registered securities association, to create a new limited registration category for any associated person of a member whose investment banking and securities business is limited solely to affecting sales of private securities offerings. NASD Regulation is not proposing any textual changes to the By-Laws, Schedules to the By-Laws, or Rules of NASD Regulation or the NASD.

A description of the Series 82 examination is included in a study outline prepared by NASD Regulation. Confidential information on the examination is included in the examination specifications, which have been omitted from this filing and are being submitted under separate cover to the Secretary of the SEC pursuant to Rule 24b–2 under the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of an basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections (A), (B), and (C) bleow, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The GLBA requires the creation of a new limited registration category for private securities offerings. More specifically, Title II of the GLBA, which becomes effective on May 12, 2001 (or such later date on which Title II of GLBA becomes effective), requires the NASD, as a registered securities association, to create a limited registration category for any associated person of a member whose investment banking and securities business is limited solely to effecting sales of private securities offerings. Therefore, pursuant to Section 15(A)(g)(3) of the Act, which requires the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members, the NASD has developed the proposed Series 82 examination program to establish that persons associated with NASD members who are seeking to register under the new limited registration category for private securities offerings have attained specified levels of competence and knowledge.

The proposed Series 82 Limited Representative-Private Securities Offerings examination will be an NASD examination that qualifies an associated person of a member, whose investment banking and securities business is limited solely to effecting sales of private securities offerings, to effect such sales. This examination tests a candidate's knowledge of securities industry rules and regulations pertinent to such products. The Series 82 will not qualify a registered representative in this category to effect sales of municipal or government securities, equity interests in or the debt of direct participation programs (DPP securities), or resales of or secondary market transactions in private placement securities. Persons seeking to effect the aforementioned sales must register in one or more of the other NASD limited representative categories or as a General Securities Registered Representative and pass the appropriate qualification examination(s).

A committee of industry representatives, in conjunction with NASD Regulation staff, developed the series 82 study outline and specifications. The examination will be divided into four topical sections. The topical sections and the number of questions designated to each such section are: Characteristics of Corporate Securities (14); Regulation of the The Market for Registered and Unregistered Securities (45); Analyzing Corporate Securities (15); and Handling Customer Accounts and Industry Regulations (26). The specifications for the Series 82 examination, which have been omitted from this filing and are being submitted under separate cover to the Secretary of the SEC pursuant to Rule 24b–2 under the Act, describe additional confidential information regarding the examination.

The examination will be a 150 minutes, 100 multiple choice question examination with 70% as the passing score.

(2) Statutory Basis

NASD Regulation believes that the proposed Series 82 examination program is consistent with the provisions of sections 15A(b)(6) and 15A(g)(3) of the Act, which authorize the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members. The proposed Series 82 examination program also is necessary to implement section 203 of the GLBA.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by the Association as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[7] Consequently, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until May 12, 2001 (or such later date on which Title II of the GLBA becomes effective), more than 30 days after the date on which it was filed, and NASD Regulation provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[5] On November 28, 2000, the NASD, through its wholly-owned subsidiary, NASD Regulation, filed with the Commission SR–NASD–00–69, proposing amendments to NASD Rule 1032 to create a new limited registration category for private securities offerings. NASD Regulation filed Amendment No. 1 to the proposed rule change on February 28, 2001. Amendment No. 1 replaced the filing in its entirety. *See* Release No. 34–44091 (March 21, 2001), 66 FR 16964 (March 28, 2001).

[6] Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106–102, 113 Stat. 1338 (1999).

[7] 17 CFR 240.19b–4(f)(6).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 25, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11208 Filed 5–3–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3336]

State of Kansas

As a result of the President's major disaster declaration on April 27, 2001, I find that Barton County in the State of Kansas constitutes a disaster area due to damages caused by severe storms and tornadoes that occurred April 21, 2001 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 26, 2001, and for loans for economic injury until the close of business on January 28, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Ellsworth, Pawnee, Rice, Rush, Russell and Stafford Counties in Kansas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 333611 and for economic injury the number is 9L5900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 30, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–11250 Filed 5–3–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3333]

State of Mississippi; (Amendment #1)

In accordance with a notice received from the Federal Emergency Management Agency, dated April 27, 2001, the above-numbered Declaration is hereby amended to include Leake, Neshoba and Pontotoc Counties in the State of Mississippi as disaster areas caused by flooding and severe storms occurring between April 3–5, 2001.

In addition, applications for economic injury loans from small businesses located in Calhoun, Kemper, Lafayette, Lauderdale, Newton and Scott Counties in the State of Mississippi may be filed until the specified date at the previously designated location. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 17, 2001 and for economic injury the deadline is January 17, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 27, 2001.

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 01–11248 Filed 5–3–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3334]

State of New York (And Contiguous Counties in Pennsylvania)

Sullivan County and the contiguous counties of Delaware, Orange and Ulster in the State of New York; and Wayne and Pike Counties in the Commonwealth of Pennsylvania constitute a disaster area due to damages caused by flooding that occurred on December 17, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 26, 2001 and for economic injury until the close of business on January 28, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 333406 for New York and 333506 for Pennsylvania. For economic injury, the numbers are 9L5300 for New York and 9L5400 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 27, 2001.

John Whitmore,

Acting Administrator.

[FR Doc. 01–11249 Filed 5–3–01; 8:45 am]

BILLING CODE 8025–01–P

[8] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Ticket To Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice; correction.

SUPPLEMENTARY INFORMATION: The Social Security Administration published a document in the **Federal Register** of April 17, 2001, concerning a meeting of the Ticket to Work and Work Incentives Advisory Panel. The document contained information that has changed for the meeting times and the agenda including times for the public comment period.

FOR FURTHER INFORMATION CONTACT: Kristen M. Breland, 202–358–6423.

Corrections

1. In the **Federal Register** of April 17, 2001, in FR Doc. 01–9511, on page 19829, in the second column, correct the ''Date'' to read:

Dates:

May 8, 2001, 10 a.m.–6:30 p.m.

May 9, 2001, 9 a.m.–5 p.m.

May 10, 2001, 9 a.m.–4 p.m.

2. In the **Federal Register** of April 17, 2001, in FR Doc. 01–9511, on page 19829, in the second column, correct the ''Address'' to read:

Address: Almas Temple, Oasis Room, 1315 K Street, NW., Washington, DC 20005, 202–898–1688.

On Tuesday, May 8, 2001 from 4:30 p.m. to 6:30 p.m. ONLY, the public meeting reconvenes at the Ticket to Work and Work Incentives Advisory Panel Office, Social Security Administration, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024; 202–358–6430.

3. In the **Federal Register** of April 17, 2001, in FR Doc. 01–9511, on page 19830, in the first column, correct the ''Agenda'' to read:

Agenda: The Public Testimony Comment Period on Ticket to Work and Work Incentives Improvement Act Implementation is now scheduled only on Wednesday, May 9, 2001 from 9:15 a.m. to 10:15 a.m.

Dated: April 30, 2001.

Deborah M. Morrison,

Designated Federal Officer.

Corrected Agenda

Ticket To Work and Work Incentives Advisory Panel, Public Meeting Agenda

Almas Temple, Oasis Room, 1315 K Street, NW., Washington, DC 20005, 202–898–1688

May 8, 9, and 10, 2001

Tuesday, May 8, 2001, Day 1

10:00 a.m.
Meeting Called to Order by Deborah Morrison, Designated Federal Officer
10:00 a.m. to 10:30 a.m.
Welcome, Introductions and Review of the Agenda, Sarah Wiggins Mitchell, Chair, Presiding
10:30 a.m. to 12:00 p.m.
Update on TWWIIA Implementation
12:00 p.m. to 1:30 p.m.
Lunch (On Your Own)
1:30 p.m.
Meeting Reconvenes, Sarah Wiggins Mitchell, Presiding
1:30 p.m. to 2:30 p.m.
Update on TWWIIA Implementation
2:30 p.m. to 3:30 p.m.
Breakout sessions:
Planning and Operations Committee
Evaluation Committee
4:30 p.m. to 6:30 p.m.
Open House and Web site Launch

The public meeting reconvenes at the Ticket to Work and Work Incentives Advisory Panel Office, Social Security Administration, 400 Virginia Avenue, SW, Suite 700, Washington, DC 20024, Phone: 202–358–6430.

Welcome—Sarah Wiggins Mitchell, Presiding
Opening Remarks and Review Agenda
Introduction of Panel Members and Staff
Year One in Review—Annual Interim Progress Report
Presentation and Launch of New Advisory Panel Web Site
Hands-on Demonstration of Panel's New Web Site *www.ssa.gov/work/panel*
Discussion
6:30 p.m.
Adjournment

Wednesday, May 9, 2001, Day 2

Meeting reconvenes at Almas Temple, Oasis Room, 1315 K Street, NW, Washington, DC 20005, 202–898–1688.
9:00 a.m.
Meeting Reconvened, Sarah Mitchell, Chair, Presiding
9:15 a.m. to 10:15 a.m.
Public Testimony Comment Period on TWWIIA Implementation
10:15 a.m. to 10:45 a.m.
Break
10:45 a.m. to 12:00 p.m.
Update on TWWIIA Implementation
12:00 p.m. to 1:30 p.m.
Lunch (On Your Own)
1:30 p.m.
Meeting Reconvenes, Sarah Wiggins Mitchell, Chair, Presiding
1:30 p.m. to 3:00 p.m.
Panel Deliberations on Final Advice Report
3:00 p.m. to 3:30 p.m.
Break
3:30 p.m. to 5:00 p.m.
Continuation of Panel Deliberations on Final Advice Report

Please Note: In the event that the public comments do not take up the scheduled time period, the Panel will use that time to deliberate and conduct other Panel business.

Thursday, May 10, 2001 Day Three

9:00 a.m. to 9:30 a.m.
Meeting Reconvened and Opening Remarks, Sarah Wiggins Mitchell, Chair, Presiding
9:30 a.m. to 10:30 a.m.
Update on TWWIIA Implementation
10:30 a.m. to 11:00 a.m.
Break
11:00 a.m. to 12:00 p.m.
Panel Deliberation on Final Advice Report
12:00 p.m. to 1:30 p.m.
Lunch (On Your Own)
1:30 p.m.
Meeting Reconvenes, Sarah Mitchell, Presiding
1:30 p.m. to 2:30 p.m.
Panel Deliberations and Committee Reports
2:30 p.m. to 4:00 p.m.
Quarterly Business Meeting

Ticket to Work and Work Incentives Advisory Panel Quarterly Business Meeting—2:30 p.m. to 4:00 p.m.

I. Call to Order
II. Approval Minutes of Previous Meetings
February 6, 7 and 8, 2001
March 26, 27 and 28, 2001
III. Administrative Report from Executive Director
IV. Reports from Committees
Evaluation Committee
Planning and Operations Committee
V. Unfinished Business
VI. New Business
VII. Next Meeting
VIII. Wrap-up
4:00 p.m.
Adjournment

[FR Doc. 01–11325 Filed 5–1–01; 4:48 pm]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment on Specific Rules of Origin in the Free Trade Area of the Americas, the U.S.-Chile Free Trade Agreement, and the U.S.-Singapore Free Trade Agreement

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments.

SUMMARY: The interagency Trade Policy Staff Committee (TPSC) seeks public

comment by May 25, 2001, as part of its efforts to develop product-specific rules of origin for the Free Trade Area of the Americas (FTAA), the U.S.-Chile Free Trade Agreement (Chile FTA), and the U.S.-Singapore Free Trade Agreement (Singapore FTA).

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative at (202) 395–3475. General questions concerning FTAA and Chile FTA negotiations should be addressed to the agency's Office of Western Hemisphere Affairs at (202) 395–5190. General questions concerning the Singapore FTA negotiations should be addressed to the agency's Office of Asia and the Pacific, at (202) 395–3430. Questions pertaining to this specific request for public comment as it relates to the Chile FTA and the Singapore FTA should be addressed to Matthew Rohde, Director for Customs Affairs, Office of the USTR, at (202) 395–3063 and as regards to the FTAA to Bennett Harman, Deputy Assistant US Trade Representative for Latin America, Office of the USTR, at (202) 395–5190. The official FTAA web site (*www.ftaa-alca.org*) contains information regarding the FTAA process, including official documents.

SUPPLEMENTARY INFORMATION: At the first Summit of the Americas, held in Miami, Florida on December 11, 1994, the President of the United States and 33 other democratically-elected leaders in the Western Hemisphere agreed to conclude an FTAA no later than 2005. Hemispheric leaders formally launched FTAA negotiations at the second Summit of the Americas, held in Santiago, Chile on April 18–19, 1998. The Presidents of the United States and Chile announced plans for a Chile FTA on November 29, 2000, and trade ministers from the two countries launched bilateral negotiations on December 6, 2000. The TPSC has already requested public comment on general U.S. positions and objectives in the FTAA (63 FR 128, July 6, 1998; 64 FR 248, December 28, 1999) and the Chile FTA (65 FR 241, December 14, 2000).

On November 16, 2000, the President of the United States and the Prime Minister of Singapore agreed to negotiate a bilateral free trade agreement. The TPSC has previously requested public comment on negotiating objectives for the agreement and on how specific goods and services and other matters should be treated under the Singapore FTA (65 FR 71197; November 29, 2000 and 65 FR 80982; December 22, 2000).

The United States is seeking rules of origin in the FTAA, the Chile FTA and the Singapore FTA which will ensure that only goods produced in the territories of the parties to those Agreements qualify for preferential tariff treatment. Concurrently, another objective of the United States will be to ensure that the rules of origin in the FTAA, the Chile FTA and the Singapore FTA are transparent, administrable, and trade facilitative. In order to meet these objectives, and based in part on responses to previous requests for public comment, in the negotiations to date on these agreements the United States has advocated pursuing the development of product-specific rules of origin.

A product-specific approach to preferential rules of origin will require negotiators to establish, for each product or product sector, the degree of working or processing necessary within the Parties to the FTAA, Chile FTA, and the Singapore FTA to transform non-originating component materials into originating goods eligible for preferential tariff treatment. In the North American Free Trade Agreement (NAFTA), the predominant approach used for preferential rules of origin was a product-specific ''tariff shift'' approach, whereby the degree of working or processing is represented by a specified change in Harmonized Tariff System tariff classification for each product or sector.

The product-specific ''tariff shift'' approach is to be contrasted with rules of origin based upon a single generally-applicable rule, such as a ''regional value content'' test , or a single uniformly applied ''tariff shift'' standard. Comments previously submitted as well as experience over the years in administration of rules of origin suggest important advantages related to greater certainty in the administration of product-specific rules of origin than with a generally applicable ''regional value content'' rule of origin. The product-specific ''tariff shift'' approach also has advantages over a uniform ''tariff shift'' approach because Harmonized System tariff nomenclature was not drafted for the purpose of reflecting a particular transformation for all products by virtue of a shift between a single uniform level of digits within the Harmonized System.

The NAFTA preferential rules of origin are listed at General Note 12 to the Harmonized Tariff Schedule of the United States (HTSUS), available on the U.S. International Trade Commission (ITC) web site at *http://dataweb.usitc.gov/SCRIPTS/tariff/toc.html.* A detailed summary of the current U.S. negotiating position on market access issues in the FTAA, including rules of origin, can be found on the USTR web site at www.ustr.gov/regions/whemisphere/ftaa.shtml.

The TPSC invites comments on all matters related to the development of product-specific rules of origin for the FTAA, the Chile FTA, and the Singapore FTA. It is recognized that comments or advice may or may not differ as to issues presented, respectively, by the FTAA, Chile FTA, and Singapore FTA. To the greatest extent possible, comments specifically should address the following questions, with clear designation as to the particular product or sector and the Harmonized System category or categories to which such comments apply.

- What, if any, are the specific market concerns or commercial practices for a particular product or sector that should be taken into account in the development of preferential rules of origin in the FTAA, the Chile FTA, and the Singapore FTA?
- Would it be appropriate to propose product-specific preferential rules of origin that are similar to, if not the same as, existing NAFTA preferential rules of origin?
- Alternatively, would it be appropriate to propose product-specific rules of origin that differ from existing NAFTA preferential rules of origin in order to take into account changed market conditions or different production and sourcing practices in Singapore, Chile or the rest of the Western Hemisphere?
- A number of the NAFTA preferential rules of origin include qualifications on product-specific tariff-shift rules, such as an additional value-content criterion. Would it be appropriate to propose simpler preferential rules of origin for the FTAA, Chile FTA, or Singapore FTA that either rely solely on a product- or sector-specific tariff shift? Alternatively, in the event that an additional qualification on a product-specific tariff-shift rule may be deemed necessary, would a formulation of a value-content criterion that is simpler than what exists in NAFTA be appropriate?
- Would it be appropriate to propose product-specific rules of origin that differ from existing NAFTA preferential rules of origin where the United States has or will soon have a most favored nation tariff rate of zero?
- Would it be appropriate to propose for certain products or sectors that the parties to the FTAA, Chile FTA or

Singapore FTA establish a common external tariff and forego preferential rules of origin?

Request for Comments

Request for public comment on specific rules of origin for the FTAA, the Chile FTA and the Singapore FTA. Those persons wishing to provide written comments should submit twenty (20) typed copies, no later than noon, May 25, 2001, to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, Office of the U.S. Trade Representative, Room F516, 1724 F Street, NW., Washington, DC 20508. Nonconfidential comments may be submitted via the Internet to *gblue@ustr.gov.* Comments should clearly state the position taken and present evidence to support that position. Any business confidential material must be clearly marked as such on the cover page (or letter) and succeeding pages. Such submissions must be accompanied by a nonconfidential summary thereof.

Nonconfidential submissions will be available for public inspection at the USTR Reading Room, Office of the U.S. Trade Representative, Room 3, 1724 F Street, NW., Washington, DC. An appointment to review the file may be made by calling Brenda Webb at (202) 395–6186. The Reading Room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–11306 Filed 5–3–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Smyrna Airport, Smyrna, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Under the provisions of 49 U.S.C. 47153(c), notice is being given that the FAA is considering a request from the Smyrna/Rutherford County Airport Authority to waive the requirement that a 23.934-acre parcel of surplus property, located at the Smyrna Airport, be used for aeronautical purposes.

DATES: Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, TN 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John R. Black, Executive Director of the Smyrna/Rutherford County Airport Authority at the following address: 660 Fitzhugh Blvd., Smyrna, TN 37167.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, TN 38116–3841, (901) 544–3495 extension 16. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Smyrna/Rutherford County Airport Authority to release 25.934 acres of surplus property at the Smyrna Airport. The property will be purchased by the Town of Smyrna and used for the expansion of the Smyrna Wastewater Treatment Plant. The property fronts East Sam Ridley Parkway and is adjacent and east of the existing Smyrna Wastewater Treatment Plan. The expansion activities will include two(2) aeration basins and two(2) clarifying ponds. The net proceeds from the sale of this property will be used for airport purposes. The USDA has evaluated the proposed use of the land for expansion of the wastewater treatment facility and has indicated the proposed usage will be compatible with airport operations if USDA recommendations are followed.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.** In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Smyrna/Rutherford County Airport Authority.

Issued in Memphis, Tennessee, on April 26, 2001.

Charles L. Harris,

Assistant Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 01–11264 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–20001–34]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on April 30, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No: FAA–2001–9034.

Petitioner: Bombardier Aerospace, Inc.

Section of 14 CFR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought/Disposition: To permit type certification of the Model BD–100–1A10 by conducting applicable testing specified in accordance with (1) hydraulic system components, lines, and installation are individually tested to 1.5 times the design operating pressure as part of qualifications tests, and (2) the complete hydraulic system is functionally tested on the airplane over the range of motion of all associated user systems at the system relief pressure setting of 3,400 psid. *Partial Grant, 04/18/2001, Exemption No. 7508.*

Docket No.: FAA–2001–8866.

Petitioner: Celsius Aerotech, Inc.

Section of 14 CFR Affected: 14 FR 145.45(f).

Description of Relief Sought/Disposition: To permit Celsius to establish and maintain a number of fixed locations within Celsius for the repair station Inspection Procedures Manual (IPM) and to assign IPM's to key individuals within departments. *Grant, 04/10/2001, Exemption No. 6657B.*

Docket No.: FAA–2001–9091 (previously Docket No. 29479).

Petitioner: Skydive U, Inc. formerly known as Skydive Utah, Inc.

Section of 14 CFR Affected: 14 CFR 105.43(a).

Description of Relief Sought/Disposition: To permit SUI's nonstudent foreign nationals to participate in SUI-sponsored parachute jumping events held at SUI's facilities without complying with the parachute equipment and packing requirement of § 105.43(a). *Grant, 04/10/2001, Exemption No. 6928A.*

Docket No.: FAA–2001–8741 (previously Docket No. 29218).

Petitioner: Cessna Aircraft Company.

Section of 14 CFR Affected: 14 CFR 91.409(b).

Description of Relief Sought/Disposition: To permit owners and operators of Cessna Model 172R, 172S, and 182S (C–172R, C–172S, and C–182S, respectively) airplanes to use Cessna's PhaseCard Inspection Program rather than completing the required 100-hour inspection. *Grant, 04/10/201, Exemption No. 6901B.*

Docket No.: 29975

Petitioner: Express Airlines I, Inc.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/Disposition: To permit Express to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing. *Grant, 04/12/2001, Exemption No. 7504.*

Docket No.: FAA–2001–8877.

Petitioner: Piedmont Aviation Services, Inc.

Section of 14 CFR Affected: 14 CFR 25.857(c), and 25.858, 121.314(c).

Description of Relief Sought/Disposition: To permit two Boeing Model 737–200 airplanes to operate from March 20, 2001, until September 15, 2001, without being fitted with fire suppression equipment. *Denial, 03/13/2001, Exemption No. 7457.*

Docket No.: FAA–2000–8492.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.1435(b)(1).

Description of Relief Sought/Disposition: To permit amended type certification of the Boeing Models 777–200LR and 777–300ER by conducting a 3400 psig (the system relief pressure) test of the modified or added hydraulic tubing runs and any rerouted sections while verifying that adequate clearances exist. *Partial Grant, 03/28/2001, Exemption No. 7478.*

[FR Doc. 01–11259 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–35]

Petitions for Exemption, Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on April 30, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9010.

Petitioner: Kitty Hawk Charters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Kitty Hawk to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/16/2001, Exemption No. 7506.*

Docket No.: FAA–2001–8787.

Petitioner: Flight Alaska, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Flight Alaska to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/16/2001, Exemption No. 7505.*

Docket No.: FAA–2001–8865.

Petitioner: Corporate Air, LLC.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Corporate Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/2001, Exemption No. 7498.*

Docket No.: FAA–2001–9033.

Petitioner: Silverhawk Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Silverhawk to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/2001, Exemption No. 7499.*

Docket No.: FAA–2001–9105.

Petitioner: Ameristar Jet Charter, Inc.

Section of 14 CFR Affected: 14 CFR 135.13(c)(2).

Description of Relief Sought/Disposition: To permit Ameristar to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/2001, Exemption No. 7500.*

Docket No.: FAA–2001–9031.

Petitioner: Houston Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit HHI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/2001, Exemption No. 7501.*

Docket No.: FAA–2001–9100.

Petitioner: Tex-Air Helicopters, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Tex-Air to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/2001, Exemption No. 7502.*

Docket No.: FAA–2001–8871.

Petitioner: Mentone Flying Club, Inc.

Section of 14 CFR Affected: 14 CFR 135.231, 135.255, 135.353, and appendixes I and J to part 121.

Description of Relief Sought/Disposition: To permit Mentone to conduct sightseeing flights at Fulton County Airport for the one-day Round Barn Festival charitable event in June 2001, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 04/12/2001, Exemption No. 7503.*

Docket No.: FAA–2001–9081.
Petitioner: Helicopter Experts, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit HEI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 04/12/ 2001, Exemption No. 7497.*

Docket No.: FAA–2001–9166 (previously Docket No. 30076).
Petitioner: TACA International Airlines.
Section of 14 CFR Affected: 14 CFR 121.344(b).
Description of Relief Sought/ Disposition: To permit TAI to operate five Airbus A300 airplanes (Registration Nos. N59106, N59107, N59139, N59140, and N68142) without installing the required DFDR on each airplane until August 20, 2001. *Grant, 04/17/2001, Exemption No. 7350A.*

Docket No.: FAA–2001–9166 (previously Docket No. 28828).
Petitioner: North American Airlines Inc.
Section of 14 CFR Affected: 14 CFR 119.67(a)(1).
Description of Relief Sought/ Disposition: To permit Edward F. Dascoli to act as the Director of Operations for NAA without holding an airline transport pilot certificate. *Grant, 04/13/2001, Exemption No. 7510.*

[FR Doc. 01–11260 Filed 5–3–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chico Municipal Airport, Chico, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chico Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210 Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert A. Grierson, Airport Manager of the Chico Municipal Airport, at the following address: City of Chico, P.O. Box 3420, Chico, CA 95927. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Chico under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from PFC at Chico Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On April 4, 2001, the FAA determined that the application to impose and use a PFC submitted by the city of Chico was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 3, 2001.

The following is a brief overview of the impose and use application No. 01–04–C–00–CIC:

Level of proposed PFC: $3.00.
Proposed charge effective date: November 1, 2001.
Proposed charge expiration date: September 1, 2006.
Total estimated PFC revenue: $536,747.
Brief description of the proposed projects: Access road and drainage facilities between Fortress Street and aircraft parking apron development including complete engineering design and construction; Rehabilitate underground electrical duct and cable system-electrical vault to terminal to airport traffic control tower to apron edge; Runway 13L/31R pavement rehabilitation; Fortress Street overlay and reconstruction; Commercial road development-road construction and gate controls-Boeing Avenue, Convair Court, Fairchild Court, Lockheed Court, Piper Court, and Alley Road; New airfield sweeper: Replace airfield guidance signs-3 and noise abatement signs-2; Overlay runway 13R/31L and taxiways B, D, E & F between parallel runways; Expand T-hangar area taxiway and connect T-hangar taxiway to taxiway A; Acquire insulation suits for aircraft fire and rescue personnel; Airport master plan study; infield grading; Extend security fence ditch crossings; Improve emergency access and service road to west side of airport; and Installation of automated weather observation system.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Chico.

Issued in Hawthorne, California, on April 4, 2001.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 01–11263 Filed 5–3–01; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (01–05–C–00–EGE) To Impose and To Use a Passenger Facility Charge (PFC) at the Eagle County Regional Airport, Submitted by the County of Eagle, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at the Walker Field Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration;

26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James P. Elwood, Airport Manager, at the following address: Eagle County Regional Airport, P.O. Box 850, Eagle, Colorado 81631.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Eagle County Regional Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (01–05–C–00–EGE) to impose and use a PFC at the Eagle County Regional Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 23, 2001, the FAA determined that the application to impose and use a PFC submitted by the County of Eagle, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 21, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: April 1, 2009.

Proposed charge expiration date: July 1, 2018.

Total requested for use approval: $8,132,130.

Brief description of proposed project: Commercial Terminal Building Expansion.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 315, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Eagle County Regional Airport.

Issued on Renton, Washington on April 23, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–11262 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In March 2001, there were 12 applications approved. This notice also includes information on one application, approved in January 2001, inadvertently left off the January 2001 notice. Additionally, seven approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Hattiesburg-Laurel Regional Airport Authority, Hattiesburg, Mississippi.

Application Number: 01–03–C–00–PIB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved In This Decision: $149,610.

Earliest Charge Effective Date: June 1, 2001.

Estimated Charge Expiration Date: December 1, 2003.

Class of Air Carriers Not Required To Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Acquire aircraft rescue and firefighting (ARFF) vehicle.
Design phase of runway overlay.
Install security fencing.
Install new airfield signage.
Acquire land for development.
Acquire security vehicle.
Construct ramp edge taxiway and apron expansion.
Acquire security communications equipment.
Terminal renovations, phase I.
Acquire security vehicle.
Terminal renovations, phase II.
Airfield erosion control, ditch #1.
Rehabilitate security system.
Terminal renovations, phase III.

Decision Date: January 10, 2001.

For Further Information Contact: Patrick Vaught, Jackson Airports District Office, (601) 664–9885.

Public Agency: Milwaukee County, Milwaukee, Wisconsin.

Application Number: 00–06–C–00–MKE.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $22,667,375.

Earliest Charge Effective Date: May 1, 2004.

Estimated Charge Expiration Date: July 1, 2006.

Class of Air Carriers Not Required To Collect PFC'S: Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at General Mitchell International Airport (MKE).

Brief Description of Projects Approved for Collection at MKE and Use at MKE:

Pavement replacement taxiways A and A3.
Reconstruct perimeter road.
Rehabilitate runway 7R/25L.
C concourse stem and six-gate expansion—design.
Acquire flight information display and paging systems.
Master plan update.
Terminal apron joint repair.
Sealcoat runways 7L/25R and 13/31 and associated taxiways.
Electrical master plan.
Rehabilitate taxiway B.
Construct abrasive storage building.
Upgrade security system.
Runway 1L/19R centerline and touchdown zone lights.
C concourse taxiway expansion.
Rehabilitate baggage claim area—design.
Rehabilitate taxiway M.
Construct maintenance storage building.
Hush house notice suppressor—design.

Brief Description of Project Approved for Collection at MKE and Use at Lawrence J. Timmerman Airport:

Rehabilitate apron and taxilanes.

Brief Description of Project Approved for Collection at MKE:

C concourse stem and six-gate expansion—construction.

Decision Date: March 8, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

Public Agency: Town of Islip, New York.

Application Number: 01–04–C–00–ISP.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $441,949.

Earliest Charge Effective Date: June 1, 2005.

Estimated Charge Expiration Date: August 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Long Island Mac Arthur Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of runway 10/28.
Terminal master plan and airport layout plan update.
Acquisition of an ARFF vehicle.
Acquisition of two airport vacuum sweepers.
Purchase one airport incident command vehicle.
Purchase snow removal equipment; Purchase two airport security vehicles.
Rehabilitate taxiway A.

Decision Date: March 12, 2001.

FOR FURTHER INFORMATION CONTACT: Dan Vornea, New York Airports District Office, (416) 227–3812.

Public Agency: County of Kern, Bakersfield, California.

Application Number: 01–03–C–00–BFL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $9,086,000.

Earliest Charge Effective Date: May 1, 2002.

Estimated Charge Expiration Date: January 1, 2015.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use: New passenger terminal.

Brief Description of Project Approved for Use: Land acquisition for airport expansion.

Decision Date: March 16, 2001.

FOR FURTHER INFORMATION CONTACT: David Delshad, Western Pacific Region Airports Division, (310) 725–3627.

Public Agency: Pitt-Greenville Airport Authority, Greenville, North Carolina.

Application Number: 01–02–C–00–PGV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,480,404.

Earliest Charge Effective Date: July 1, 2001.

Estimated Charge Expiration Date: May 1, 2009.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Environmental assessment.
Relocate Highway 39.
Update airport layout plan.
Taxiway A extension.
Realignment/rehabilitation of taxiways A and B and air carrier apron (design only).
Rehabilitate ARFF building.
Rehabilitate runways.
Rehabilitate airfield lighting.
Rehabilitate navigational aids.
Rehabilitate terminal building.
Prepare PFC application.
Runway 2 safety area improvements.
Taxiway A relocation.
Air carrier apron rehabilitation.
Taxiway B relocation.
Acquire ARFF vehicle.
Land acquisition.

Brief Description of Projects Approved for Use:

Approach lighting system for runway 20.
Extend runway 20 by 500 feet.

Decision Date: March 19, 2001.

FOR FURTHER INFORMATION CONTACT: Rans D. Black, Atlanta Airports District Office, (404) 305–7141.

Public Agency: County of Clinton, Plattsburgh, New York.

Application Number: 01–04–I–00–PLB.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $46,275.

Earliest Charge Effective Date: June 1, 2001.

Estimated Charge Expiration Date: December 1, 2002.

Class if Air Carriers Not Required To Collect PFC's: Non scheduled/on-demand operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Clinton County Airport.

Brief Description of Projects Approved for Collection:

On airport obstruction removal (phases I and II).
Transient apron rehabilitation.

Decision Date: March 22, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Levine, New York Airports District Office, (516) 227–3807.

Public Agency: Lehigh-Northampton Airport Authority, Allentown, Pennsylvania.

Application Number: 01–05–C–00–ABE.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,807,572.

Earliest Charge Effective Date: June 1, 2001.

Estimated Charge Expiration Date: June 1, 2003.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Lehigh Valley International Airport.

Brief Description of Projects Approved for Collection and Use:

Land acquisition—runway 24 noise—Toye.
Land acquisition—runway 24 runway protection zone—Piechota, Stahley, Fegley, and Festa-A-Pizza.
Land acquisition—Runway 13 approach—Sovereign Bank and Allentown-Bethlehem Industrial.
Land acquisition for runway 24 noise compatibility.
Land acquisition—runway 13 approach—Willow Brook and Willow Brook east.
Land acquisition—24—Dr. Prah and Partridge/Peartree.
Mimic panel.
ARFF vehicle.
Master plan.
Rehabilitate runway 6/24.
Air cargo apron (phase I).
Noise monitoring system.
Part 150 study.
RON apron.

Decision Date: March 26, 2001.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sullivan, Harrisburg Airports District Office, (717) 730–2832.

Public Agency: Regional Airport Authority of Louisville and Jefferson County, Louisville, Kentucky.

Application Number: 01–02–C–00–SDF.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $16,398,940.

Earliest Charge Effective Date: January 1, 2015.

Estimated Charge Expiration Date: June 1, 2018.

Classes of Air Carriers Not Required To Collect PFC's: Any (1) air taxi and commercial operator; (2) Certified air carriers; and (3) certified route air carriers having fewer than 500 annual enplanements at Louisville International Airport (SDF).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at SDF.

Brief Description of Projects Approved for Collection and Use:

West perimeter road.
Flight track monitoring system.
ARFF station.
Passenger terminal modifications.
Charger terminal/customs facility.
Northeast terminal apron.

Decision Date: March 27, 2001.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Memphis Airports District Office, (901) 544–3495, extension 21.

Public Agency: Indiana Airport Authority, Indianapolis, Indiana.

Application Number: 01–03–C–00–IND.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $444,022,707.

Earliest Charge Expiration Date: April 1, 2022.

Estimated Charge Expiration Date: April 1, 2022.

Class of Air Carriers Not Required To Collect PFC's: Non-scheduled on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Indianapolis International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level: Midfield terminal.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Preparation of PFC application (2000).
Preparation of PFC amendment and application (1996).

Decision Date: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Gary K. Regan, Chicago Airports District Office, (847) 294–7525.

Public Agency: City of Manchester, New Hampshire.

Application Number: 01–09–C–00–MHT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $700,000.

Earliest Charge Effective Date: April 1, 2017.

Estimated Charge Expiration Date: June 1, 2017.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Manchester Airport.

Brief Description of Project Approved for Collection and Use: Acquire ARFF vehicle.

Decision Date: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Kenton County Airport Board, Covington, Kentucky.

Application Number: 01–06–C–00–CVG.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $21,117,000.

Earliest Charge Effective Date: November 1, 2001.

Estimated Charge Expiration Date: June 1, 2002.

Classes of Air Carriers Not Required To Collect PFC's: (1) Part 121 supplemental operators which operate at the airport without an operating agreement with the public agency and enplane less than 1,500 passengers per year; (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Determination: Approved. Based on the information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Projects Approved for Collection and Use:

Noise compatibility program measures—1999 Part 150 update.
South detention basin closure.
Part 107.14 security system acquisition (original acquisition).

Brief Description of Project Approved in Part for Collection and Use: ARFF training facility upgrades.

Determination: Partially approved. The new propane-fired five-story concrete fire training tower is not eligible under the Airport Improvement Program in accordance with Program Guidance Letter, ''Regional Burn Pits'' (June 4, 1991). There are no Part 139 requirements for structural fire training and exercises involving elevated evacuations of a height commensurate with the largest aircraft using the airport. The approved amount was reduced from the amount requested by the estimated cost of the proposed fire training tower.

Decision Date: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Memphis Airports District Office, (901) 544–3495, extension 21.

Public Agency: Cheyenne Airport Board, Cheyenne, Wyoming.

Application Number: 01–02–C–00–CYS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $407,728.

Earliest Charge Effective Date: August 1, 2005.

Estimated Charge Expiration Date: January 1, 2011.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Land acquisition for noise.
Glycol containment system.
Taxiway A extension.
Noise compatibility land development.
Storm drainage master plan.
Runways 12/30 and 8/26 safety area improvements.
Construct commercial service apron.

Decision Date: March 28, 2001.

FOR FURTHER INFORMATION CONTACT: Christopher J. Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Jackson Hole Airport Board, Jackson, Wyoming.

Application Number: 01–07–C–00–JAC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $111,930.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: October 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Install medium intensity approach lighting system.
Air carrier apron reconstruction.

Brief Description of Projects Approved in Part for Collection and Use: Snow

removal equipment and PFC administration.

Determination: The replacement of the snow plow attachment is considered maintenance and is not PFC eligible. The approved amount was reduced from the amount requested by the estimated cost of the snow plow attachment.

Brief Description of Project Withdraw: Aircraft parking apron extension.

Determination: This project was withdrawn by the public agency by letter dated December 18, 2000. Therefore, the FAA did not rule on this project in this decision.

Decision Date: March 30, 2001.

FOR FURTHER INFORMATION CONTACT: Christopher J. Schaffer, Denver Airports District Office, (303) 342–1258.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–03–DAB, Daytona Beach, FL	02/28/01	$8,702,230	$4,336,534	02/01/01	08/01/97
98–05–C–01–ESC, Escanaba, MI	02/28/01	196,095	182,700	10/01/00	07/01/00
98–04–C–01–JST, Johnstown, PA*	03/02/01	496,540	628,121	04/01/03	10/01/06
92–01–C–03–TWF, Twin Falls, ID*	03/12/01	1,140,567	1,145,067	07/01/02	07/01/02
00–02–C–01–TWF, Twin Falls, ID*	03/12/01	483,040	483,040	01/01/07	07/01/05
92–01–C–04–GJT, Grand Junction, CO	03/21/01	1,794,117	1,787,415	04/01/03	04/01/03
96–02–U–03–GJT, Grand Junction, CO	03/21/01	NA	NA	04/01/03	04/01/03

Note: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Johnstown, PA, this change is effective on May 1, 2001. For Twin Falls, ID, this change is effective on June 1, 2001.

Issued in Washington, DC, on April 26, 2001.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 01–11265 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (#01–04–C–00–GJT) To Impose and To Use a Passenger Facility Charge (PFC) at the Walker Field Airport, Submitted by the Walker Field Airport Authority, Grand Junction, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at the Walker Field Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 4, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Corinne C. Nystrom, Airport Manager, at the following address: Walker field Airport Authority, 2828 Walker Field Drive, Suite 211, Grand Junction, Colorado 81506.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the Walker Field Airport Authority, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 342–1258; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#01–04–C–00–GJT) to impose and use a PFC at the Walker Field Airport, under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 23, 2001, the FAA determined that the application to impose and use a PFC submitted by the Walker Field Airport Authority, Grand Junction, Colorado, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 24, 2001.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 2001.

Proposed charge expiration date: September 1, 2006.

Total requested for use approval: $50,000.00.

Brief description of proposed projects: Runaway 4/22 Runway End Identifier Lights (REILS), Electrical Vault Replacement, Air Carrier Ramp Expansion, and Expansion of Terminal Building Boarding Area, Concourses, and Loading Bridges.

Class or classes of air carriers, which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Walker Field Airport.

Issued in Renton, Washington on April 23, 2001.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 01–11261 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and comment. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 12, 2001 (66 FR 9890). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by June 4, 2001.

ADDRESSES: You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Wether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

FOR FURTHER INFORMATION CONTACT: Byron E. Dover, 202–366–2161, Office of Safety Design, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

OMB Control No: 2125–0579 (Expiration Date: June 30, 2001).

Title: Drug Offender's Drivers' License Suspension Certification.

Abstract: States are legally required to enact and enforce laws that revoke or suspend the drivers' licenses of any individual convicted of a drug offense and to make annual certifications to the FHWA on their actions. The implementing regulations of the Department of Transportation and Related Agencies Appropriation Act, 1993 (Pubic Law 102–388, October 6, 1992) require annual certifications by the Governors. In this regard, the State must submit by January 1 of each year either a written certification, signed by the Governor, stating that the State is in compliance with 23 U.S.C. 159; or a written certification stating that the Governor is opposed to the enactment or enforcement, and that the State legislature has adopted a resolution expressing its opposition to 23 U.S.C. Section 159.

Beginning in fiscal year 1996, States' failure to comply by October 1 of each fiscal year will result in a withholding penalty of 10 percent from major categories of Federal-aid funds (i.e., National Highway System, Surface Transportation Program and Interstate) from States' apportionments for the fiscal year. Any funds withheld in FY 1996 and thereafter cannot be restored and will be redistributed.

Respondents: 50 States and the District of Columbia and Puerto Rico 1.

Estimated Annual Burden Hours: Annual average of 5 hours for each respondent; 260 total annual burden hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 30, 2001.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 01–11269 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9586]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ANTARES.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 4, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9586. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: ANTARES. Owner: Carl W. Roth.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Gross tonnage: 16 tons, Net tonnage: 14

tons, Length: 40.8 feet, Breadth: 14.1 feet, Depth: 5.6 feet ''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Passenger Charters of no more than 12 passengers. Plan to travel with this Vessel in U.S. waters in the Gulf of Mexico, Atlantic Ocean, and Great Lakes and would like to offer ''part-time'' charter services to interested passengers. Minimally requesting a waiver for the ''Primary Region'' which encompass the waters of the vessel's Home Port. Would also like to have the waiver encompass ''Secondary Regions A, B, & C'' for flexibility in offering ''part-time'' charter services in those waters as well.

a. Primary Region: Florida Atlantic and Gulf coastal and inland waters tributary thereto of the U.S. (From Pensacola, Florida to Fernandina Beach, Florida)
b. Secondary Region A: Gulf of Mexico coastal and inland waters tributary thereto of the U.S. (From Brownsville, Texas to Pensacola, Florida)
c. Secondary Region B: Atlantic coastal and inland waters tributary thereto of the U.S. (From Fernandina Beach, Florida to Eastport, Maine)
d. Secondary Region C: Great Lakes (Lake Ontario from Cape Vincent, NY to Niagara Falls, NY; Lake Erie from Buffalo, NY to Toledo, Ohio; Lake Huron From Port Huron, Michigan to Mackinaw City, Michigan; Lake Michigan from Mackinaw City, Michigan to Chicago, Illinois; and Lake Superior from Sault Ste. Marie, Michigan to Duluth, Minnesota) waters tributary thereto of the U.S.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1984. Place of construction: St. Hilaire de Riez, France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''I believe that granting this waiver will not unduly adversely affect any of the 3300–3500 sailboat charter companies offering potentially comparable services in these Regions. The ''part-time'' nature of my single vessel charter services and geographic distribution should minimize any adverse economic impacts to other operators. The following estimates were identified researching companies providing sailboat charter, boat building/repairing, and commercial shipyard services in the Regions of interest.

a. Primary Region: Estimate approximately 950–1000 sailboat charter companies offering boats, 1500–1600 boat building/repair companies and 8–10 companies offering commercial shipyard services in this Region.
b. Secondary Region A: Estimate approximately 650–700 sailboat charter companies offering boats, 1000–1100 boat building/repair companies and 35–40 companies offering commercial shipyard services in this region.
c. Secondary Region B: Estimate approximately 1250–1300 sailboat charter companies offering boats, 2200–2300 boat building/repair companies and 20–25 companies offering commercial shipyard services in this Region.
d. Secondary Region C: Estimate approximately 450–500 sailboat charter companies offering boats, 1700–1800 boat building/repair companies and 5–10 companies offering commercial shipyard services in this Region.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''I believe that granting this waiver will not unduly adversely affect any of the 75–80 commercial U.S. Shipyards identified since they support much larger vessels.''

Dated: April 30, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–11266 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9584]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TOP DOG.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 4, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9584. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: TOP DOG. Owner: Lauren Burch.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''30 foot Californian Gross tons 12 Net tons 9.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Vessel will be used for 6 passenger charter use in Southeast Alaska. Fishing, sightseeing, wildlife viewing, transportation.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: Unknown. Place of construction: Builder unknown.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''There will be no impact on other commercial passenger vessel operators. I already operate a vessel, and can only operate one at a time. There will be zero impact beyond what is already being experienced. There are several hundred charter boats in southeast Alaska. Most do hourly or day trips. A few dozen do multiple day trips with 6 or more passengers. I do multiple day trips for groups of 2–4. I know of no other boats that cater to small groups that do not wish to go on larger party boats. I occasionally do one day trips through the internet. Most of the day boat fleet work through the cruise ships.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''The vessel will have no impact on U.S. shipyards. It is a small fiberglass boat that will never know the inside of a shipyard. I anticipate that it will spend the remainder of its life here in southeast Alaska, and continue to have work done on it locally.''

Dated: April 30, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–11268 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–9585]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VENTURE II.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 4, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–9585. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: VENTURE II. Owner: Raymond W. Cayer.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Length:44, breadth:13.7, draft:6', gross tons 22, 12 passengers''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:

''I intend to use this sailing vessel to do long term charters along the eastern seaboard from Maine to the Virgin Islands and beyond. I don't have one particular place that I intend to work solely out of and I don't intend to do daily in/out charters though a one day charter might arise. I intend to work through local charter brokers who are eager to have such a vessel available to their clients. Term charters would be a weekend to a week long trip to different places. I don't have any one geographic area planned to base the vessels use out of. I would like to charter the vessel in the northeast waters in the summer months and down in the Virgin Islands in the winter months.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1982. Place of construction: Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''I have spoken with local charter boat owners who all seem enthusiastic for my pursuit to try and make a living by taking people for an adventure sail. I have not received any negative responses regarding the introduction of this vessel's operation into the local charter business. According to the local charter brokers there is a shortage of qualified ''captain'' owned and operated vessels to serve the trade.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''The impact on US shipyards should be a positive one as I will be hauling and servicing the boat at local yards.''

Dated: April 30, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–11267 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9324]

Highway Safety Programs; Conforming Products List of Screening Devices To Measure Alcohol in Bodily Fluids

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List (CPL) of devices that conform to the Model Specifications for Screening Devices that Measure Alcohol in Bodily Fluids (59 FR 39382).

EFFECTIVE DATE: May 4, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. James F. Frank, Office of Research and Traffic Records, Research and Evaluation Division (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–5593.

SUPPLEMENTARY INFORMATION: On August 2, 1994, Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids were published in the **Federal Register** (59 FR 39382). In these model specifications, NHTSA recognized industry efforts to develop new technologies. These specifications established performance criteria and methods for testing alcohol screening devices using either breath or other bodily fluids to measure alcohol content. NHTSA established these specifications to support State laws that target youthful offenders (i.e., ''zero tolerance'' laws) and the Department of Transportation's workplace alcohol testing program. NHTSA published its first CPL for screening devices on December 2, 1994 (59 FR 61923; with a correction in 59 FR 65128). Five devices were on that first list.

On August 15, 1995, NHTSA amended its CPL of screening devices to measure alcohol in bodily fluids in the **Federal Register** (60 FR 42214) by adding two additional devices to the list, thereby bringing the list to seven devices.

Since the publication of that list, five additional devices have been evaluated at the Volpe National Transportation Systems Center in Cambridge, MA and found to conform to the model specifications. Accordingly, these five devices, listed in alphabetical order, are being added to the CPL.

The first new listing is the ''Alcohol √™'' disposable breath alcohol tubes manufactured by Akers Laboratories, Inc., of Thorofare, NJ. These are disposable tubes that use a potassium dichromate color change to indicate whether the BAC of a breath sample is above the 0.02 threshold. These devices passed all requirements of the model specifications except when read under sodium vapor lighting conditions. Hence, they are approved for use except under sodium vapor lighting conditions, and the manufacturer's package insert specifies this limitation.

The second new listing is the Alco Check 9000 manufactured by Alco Check International of Hudsonville, MI. This device differs from the Alco Check 3000 D.O.T. and the Alco Screen 3000 (the same device sold under two different names) in that it allows for the storage and retrieval of test data by use of an added memory chip. As the Alco Check 3000 D.O.T. and the Alco Screen 3000 already conform to these model specifications, and the added memory chip does not change the alcohol-measuring capability of the device, NHTSA did not require the new Alco Check 9000 to be retested before listing it on this CPL for screening devices.

The third new device on the CPL is the ABI (Alcohol Breath Indicator) manufactured by HAN International Co. Ltd. of Seoul, Korea. This is an electronic device with a two-digit numerical display that uses a semi-conductor sensor.

The last two devices are the ''PAS IIIa'' and the ''PAS Vr'' manufactured by PAS Systems International, Inc. of Fredericksburg, VA. These are both electronic devices that use a fuel cell sensor with a two-digit numerical display. The PAS IIIa and PAS Vr are modifications of two different passive alcohol sensors made by the same company, but with a disposable mouthpiece added so that an appropriate deep-lung air sample can be obtained for breath measurements.

Two housekeeping items are also addressed in this notice. First, the company previously listed as STC Diagnostics, Inc. has changed its name to OraSure Technologies, Inc. and the new CPL reflects the inclusion of the new company name in addition to the old one. The name of its product, the Q.E.D. A150 Saliva Alcohol Test, remains the same. Second, there are a number of handheld breath test devices on the NHTSA CPL for Evidential Breath Testers that frequently are used as screening devices. It should be noted that any device on the most recent NHTSA CPL for EBTs which was published on July 21, 2000 (65 FR 45419) that was tested against the 1993 Model Specifications for Evidential Breath Testers (58 FR 48705) also fully meets the requirements of the Model Specifications for Screening Devices that Measure Alcohol in Bodily Fluids. Both procedures evaluate the performance of instruments at the 0.020 BAC level.

The Conforming Products List is therefore amended as follows:

CONFORMING PRODUCTS LIST OF ALCOHOL SCREENING DEVICES

Manufacturer	Device(s)
Akers Laboratories, Inc., Thorofare, NJ	Alcohol √™ [2]
Alco Check International[1], Hudsonville, MI	Alco Check 3000 D.O.T.
	Alco Screen 3000
	Alco Check 9000
Chematics, Inc., North Webster, IN	ALCO-SCREEN 02™ [3]
Guth Laboratories, Inc., Harrisburg, PA	Alco Tector Mark X
	Mark X Alcohol Checker
Han International Co., Ltd., Seoul, Korea	A.B.I. (Alcohol Breath Indicator)
OraSure Technologies, Inc., Bethlehem, PA (Formerly STC Technologies, Inc.)	Q.E.D. A150 Saliva Alcohol Test
PAS Systems International, Inc., Fredericksburg, VA	PAS IIIa
	PAS Vr
Repco Marketing, Inc., Raleigh, NC	Alco Tec III
Roche Diagnostic Systems, Branchburg, NJ	On-Site Alcohol [4]
STC Technologies, Inc.	Q.E.D. A150 Saliva Alcohol Test

CONFORMING PRODUCTS LIST OF ALCOHOL SCREENING DEVICES—Continued

Manufacturer	Device(s)
Sound Off, Inc.[1], Hudsonville, MI	Digitox D.O.T. Alco Screen 1000

[1] The devices listed by these manufacturers are the same devices sold under diffreent names.
[2] It should be noted that the Alcohol √ disposable breath alcohol screening device manufactured by Akers Laboratories, Inc. passed the model specifications under all lighting conditions except one, namely sodium vapor lighting. The device is being listed on this CPL with the understanding that the manufacturer will specify in written instructions accompanying the product that the device should not be used under sodium vapor lighting conditions. It passed the testing under all other conditions.
[3] While the ALCO-SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the model specifications when tested at 40°C (104°F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27°C (80°F). Instructions to this effect are stated on all packaging accompanying the device. Accordingly, the device should not be stored at temperatures above 27°C (80°F) and, if the device is stored at or below 27°C (80°F) and used at higher temperatures (i.e., within a minute), the devices met the model specifications and the results persisted for 10–15 minutes. When these devices were stored at or below 27°C (80°F) and were equilibrated at 40°C (104°F) for an hour prior to sample application, the devices failed to meet the model specifications. Storage at temperatures above 27°C (80°F), for even brief periods of time, may result in false negative readings.
[4] While this device passed all of the requirements of the model specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken one (1) minute after a sample is introduced at or above 30°C (86°F); readings should be taken after two (2) minutes at 18°C–29°C (64.4° – 84.2°F); and readings should be taken after five (5) minutes when testing at temperatures at or below 17°C (62.6°F). If the reading is taken before five (5) minutes has elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

Note that the device made by Akers Laboratories, Inc. is a single-use, disposable breath test device. The devices manufactured by Chematics, Inc., OraSure Technologies, Inc., Roche Diagnostic Systems, Inc., and STC Technologies, Inc. are all single-use, disposable saliva alcohol test devices. The other devices listed are electronic breath testers. Those manufactured by PAS Systems International, Inc. use a fuel-cell sensor, whereas those manufactured by Alco Check International, Guth Laboratories, Han International Co., Ltd., Repco marketing, Inc., and Sound Off, Inc. use semiconductor sensors.

Issued on: May 1, 2001.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 01–11318 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9318]

RIN 2127–AG19

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Review: Effectiveness of Retroreflective Tape; Evaluation Report

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a Technical Report reviewing and evaluating its existing Safety Standard 108, Lamps, Reflective Devices, and Associated Equipment. The report's title is The Effectiveness of Retroreflective Tape on Heavy Trailers.

DATES: Comments must be received no later than September 4, 2001.

ADDRESSES: *Report:* You may obtain a copy of the report free of charge by sending a self-addressed mailing label to Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. A summary of the report is available on the Internet for viewing on line at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/809222.html.* The full report is available on the Internet in PDF format at *www.nhtsa.dot.gov/cars/rules/regrev/evaluate/pdf/809222.pdf.*

Comments: All comments should refer to the Docket number of this notice (NHTSA–2001–9318). You may submit your comments in writing to: U. S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324 and visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, NPP–22, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–2560. FAX: 202–366–2559. E-mail: *ckahane@nhtsa.dot.gov.*

For information about NHTSA's evaluations of the effectiveness of existing regulations and programs: Visit the NHTSA web site at *http://www.nhtsa.dot.gov* and click ''Regulations & Standards'' underneath ''Car Safety'' on the home page; then click ''Regulatory Evaluation'' on the ''Regulations & Standards'' page.

SUPPLEMENTARY INFORMATION: The technical report evaluates the effectiveness of retroreflective tape in enhancing the visibility of heavy trailers and reducing side and rear impacts by other vehicles into these trailers during dark conditions. It is based on a statistical analysis of 10,959 crash cases investigated by the Florida Highway Patrol and the Pennsylvania State Police in 1997–1999.

The tape is quite effective. It reduced side and rear impacts into trailers, in dark conditions (including ''dark-not-lighted,'' ''dark-lighted,'' ''dawn,'' and ''dusk'') by 29 percent. In ''dark-not-lighted'' conditions, the tape reduced side and rear impact crashes by 41 percent. Tape is especially effective in reducing injury crashes. In dark conditions, it reduced side and rear impacts that resulted in fatalities or injuries to drivers of any vehicle by 44 percent.

How Can I Influence NHTSA's Thinking on This Evaluation?

NHTSA welcomes public review of the technical report and invites reviewers to submit comments about the data and the statistical methods used in the analyses. NHTSA will submit to the Docket a response to the comments and, if appropriate, additional analyses that

supplement or revise the technical report.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2001–9318) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please send two paper copies of your comments to Docket Management or submit them electronically. The mailing address is U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. If you submit your comments electronically, log onto the Dockets Management System website at *http://dms.dot.gov* and click on ''Help & Information'' or ''Help/Info'' to obtain instructions.

We also request, but do not require you to send a copy to Christina Morgan, Evaluation Division, NPP–22, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (alternatively, FAX to 202–366–2559 or e-mail to *tmorgan@nhtsa.dot.gov).* She can check if your comments have been received at the Docket and she can expedite their review by NHTSA.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NCC–01, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590. Include a cover letter supplying the information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590, or submit them electronically.

Will the Agency Consider Late Comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

How Can I Read the Comments Submitted by Other People?

You may read the comments by visiting Docket Management in person at Room PL–401, 400 Seventh Street, SW., Washington, DC from 10:00 a.m. to 5:00 p.m., Monday through Friday.

You may also see the comments on the Internet by taking the following steps:

a. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov).*

b. On that page, click on ''search.''

c. On the next page (*(http://dms.dot.gov/search/)* type in the four-digit Docket number shown at the beginning of this Notice (6545). Click on ''search.''

d. On the next page, which contains Docket summary information for the Docket you selected, click on the desired comments. You may also download the comments.

AUTHORITY: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 01–11163 Filed 5–3–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–209446–82]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–209446–82 (TD 8852), Passthrough of Items of an S Corporation to its Shareholders (§ 1.1366–1).

DATES: Written comments should be received on or before July 3, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Passthrough of Items of an S Corporation to its Shareholders.

OMB Number: 1545–1613.

Regulation Project Number: REG–209446–82.

Abstract: Section 1366 requires shareholders of an S corporation to take into account their pro rata share of separately stated items of the S corporation and nonseparately computed income or loss. Section 1.1366–1 of the regulation provides that an S corporation must report, and a shareholder is required to take into account in the shareholder's return, the shareholder's pro rata share, whether or not distributed, of the S corporation's items of income, loss, deduction, or credit.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

This reporting requirement is reflected in the burden of Form 1040, U.S. Individual Income Tax Return, and Form 1120S, U.S. Income Tax Return for an S Corporation.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–11294 Filed 5–3–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 88–30 and Notice 88–132

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning two existing notices, Notice 88–30, Diesel Fuel and Aviation Fuel Taxes Imposed at Wholesale Level, and Notice 88–132, Diesel and Aviation Fuel Taxes; Rules Effective 1/1/89.

DATES: Written comments should be received on or before July 3, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the notices should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION: *Title:* Notice 88–30, Diesel Fuel and Aviation Fuel Taxes Imposed at Wholesale Level, and Notice 88–132, Diesel and Aviation Fuel Taxes; Rules Effective 1/1/89.

OMB Number: 1545–1043.

Notice Number: Notice 88–30 and Notice 88–132.

Abstract: Notice 88–30 and Notice 88–132 require certain persons involved with diesel or aviation fuel (1) to be registered with the Internal Revenue Service, (2) to maintain certain records, and (3) to provide certificates to support exempt purchases. Because of the Code amendments made by the Omnibus Budget Reconciliation Act of 1993, these requirements now apply only with respect to aviation fuel.

Current Actions: There are no changes being made to the notices at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

Estimated Number of Respondents: 3,500.

Estimated Time Per Respondent: 1 hour, 6 minutes.

Estimated Total Annual Burden Hours: 3,850.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–11295 Filed 5–3–01; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
May 4, 2001

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405, 412, 413, etc.
Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2002 Rates; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, 413, 485, and 486

[HCFA–1158–P]

RIN 0938–AK73

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2002 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the Medicare hospital inpatient prospective payment systems for operating and capital costs to: Implement applicable statutory requirements, including a number of provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106–554); and implement changes arising from our continuing experience with these systems. In addition, in the Addendum to this proposed rule, we are describing proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes would be applicable to discharges occurring on or after October 1, 2001. We also are setting forth proposed rate-of-increase limits as well as proposed policy changes for hospitals and hospital units excluded from the prospective payment systems.

We also are proposing changes to the policies governing payments to hospitals for the direct costs of graduate medical education and critical access hospitals.

DATES: Comments will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on July 3, 2001.

ADDRESSES: Mail written comments (an original and three copies) to the following address ONLY: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1158–P, P.O. Box 8010, Baltimore, MD 21244–1850.

If you prefer, you may deliver by courier your written comments (an original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–14–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to those addresses specified as appropriate for courier delivery may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1158–P.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

For comments that relate to information collection requirements, mail a copy of comments to the following addresses:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Attn: John Burke, HCFA–1158–P; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT:

Steve Phillips, (410) 786–4548, Operating Prospective Payment, Diagnosis-Related Groups (DRGs), Wage Index, Hospital Geographic Reclassifications, and Sole Community Hospital Issues

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SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5–12–08 of the Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. Please call (410) 786–7197 to arrange to view these comments.

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I. Background

A. Summary

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system. Under these prospective payment systems, Medicare payment for hospital inpatient operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. Discharges are classified according to a list of diagnosis-related groups (DRGs).

Under section 1886(d)(1)(B) of the Act in effect without consideration of the amendments made by the Balanced Budget Act of 1997 (Public Law 105–33), the Balanced Budget Refinement Act of 1999 (Public Law 106–113, and the recent Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106–554, enacted on December 21, 2000), certain specialty hospitals are excluded from the hospital inpatient prospective payment system: Psychiatric hospitals and units, rehabilitation hospitals and

units, children's hospitals, long-term care hospitals, and cancer hospitals. For these hospitals and units, Medicare payment for operating costs is based on reasonable costs subject to a hospital-specific annual limit, until the payment provisions of Public Laws 105–33, 106–113, and 106–554 that are applicable to three classes of these hospitals are implemented, as discussed below.

Various sections of Public Laws 105–33, 106–113, and 106–554 provide for the transition of rehabilitation hospitals and units, psychiatric hospitals and units, and long-term care hospitals from being paid on an excluded hospital basis to being paid on an individual prospective payment system basis. These provisions are as follows:

• Rehabilitation Hospitals and Units. Section 1886(j) of the Act, as added by section 4421 of Public Law 105–33 and amended by section 125 of Public Law 106–113 and section 305 of Public Law 106–554, authorizes the implementation of a prospective payment system for inpatient hospital services furnished by rehabilitation hospitals and units. Section 4421 of Public Law 105–33 amended the Act by adding section 1886(j). Section 1886(j) of the Act provides for a fully implemented prospective payment system for inpatient rehabilitation hospitals and rehabilitation units, effective for cost reporting periods beginning on or after October 2002, with payment provisions during a transitional period of October 1, 2000 to October 1, 2002 based on target amounts specified in section 1886(b) of the Act. Section 125 of Public Law 106–113 amended section 1886(j) of the Act to require the Secretary to use a discharge as the payment unit for inpatient rehabilitation services under the prospective payment system and to establish classes of patient discharges by functional-related groups. Section 305 of Public Law 106–554 further amended section 1886(j) of the Act to allow hospitals to elect to be paid the full Federal prospective payment rather than the transitional period payments specified in the Act. A brief discussion of the November 3, 2000 proposed rule (65 FR 66304) that we issued to propose implementation of the prospective payment system for inpatient rehabilitation hospitals and rehabilitation units is included under section VI.A.4. of this preamble.

• Psychiatric Hospitals and Units. Sections 124(a) and (c) of Public Law 106–113 provide for the development of a per diem prospective payment system for payment for inpatient hospital services of psychiatric hospitals and units under the Medicare program, effective for cost reporting periods beginning on or after October 1, 2002. This system must include an adequate patient classification system that reflects the differences in patient resource use and costs among these hospitals and must maintain budget neutrality. We are in the process of developing a proposed rule, to be followed by a final rule, to implement the prospective payment system for psychiatric hospitals and units, effective for October 1, 2002.

• Long-Term Care Hospitals. Sections 123(a) and (c) of Public Law 106–113 provide for the development of a per discharge prospective payment system for payment for inpatient hospital services furnished by long-term care hospitals under the Medicare program, effective for cost reporting periods beginning on or after October 1, 2002. Section 307(b)(1) of Public Law 106–554 provides that payments under the long-term care prospective payment system will be made on a prospective payment basis rather than a cost basis. The long-term care hospital prospective payment system must include a patient classification system that reflects the differences in patient resource use and costs, and must maintain budget neutrality. We are planning to develop a proposed rule, to be followed by a final rule, to implement the prospective payment system for long-term care hospitals, effective for October 1, 2002. Section 307 of Public Law 106–554 provides that if the Secretary is unable to develop a prospective payment system for long-term care hospitals that can be implemented by October 1, 2002, the Secretary must implement a prospective payment system that bases payment under the system using the existing acute hospital DRGs, modified where feasible to account for resource use of long-term care hospital patients using the most recently available hospital discharge data for long-term care services.

Under sections 1820 and 1834(g) of the Act, payments are made to critical access hospitals (CAHs) (that is, rural hospitals or facilities that meet certain statutory requirements) for inpatient and outpatient services on a reasonable cost basis. Reasonable cost is determined under the provisions of section 1861(v)(1)(A) of the Act and existing regulations under Parts 413 and 415.

Under section 1886(a)(4) of the Act, costs of approved educational activities are excluded from the operating costs of inpatient hospital services. Hospitals with approved graduate medical education (GME) programs are paid for the direct costs of GME in accordance with section 1886(h) of the Act; the amount of payment for direct GME costs for a cost reporting period is based on the hospital's number of residents in that period and the hospital's costs per resident in a base year.

The regulations governing the hospital inpatient prospective payment system are located in 42 CFR Part 412. The regulations governing excluded hospitals and hospital units are located in Parts 412 and 413. The regulations governing GME payments and payments to CAHs are located in Part 413.

On August 1, 2000, we published a final rule in the **Federal Register** (65 FR 47054) that implemented both statutory requirements and other changes to the Medicare hospital inpatient prospective payment systems for both operating costs and capital-related costs, as well as changes addressing payment for excluded hospitals and payments for GME costs. Generally, these changes were effective for discharges occurring on or after October 1, 2000. On March 2, 2001, we published correction notices in the **Federal Register** (66 FR 13020) relating to the calculation of certain wage indexes and the labeling of certain DRGs.

Public Law 106–554 made a number of changes to the Act relating to prospective payments to hospitals for inpatient services and payments to excluded hospitals. This proposed rule would implement amendments enacted by Public Law 106–554 relating to FY 2002 payments for hospital inpatient services, new medical services and technology, GME costs, the payment adjustment for disproportionate share hospitals (DSHs), the indirect medical education (IME) adjustment for teaching hospitals, sole community hospitals (SCHs), and CAHs. It would also implement changes affecting hospitals' geographic reclassifications and wage index. These changes are addressed in sections II., III., IV., and VI. of this preamble.

Other provisions of Public Law 106–554 that relate to Medicare payments to hospitals effective prior to October 1, 2001 (that is, for FY 2001 or for the period between April 1, 2001 and September 30, 2001), are addressed in a separate interim final rule with comment period (HCFA–1178–IFC).

B. Major Contents of This Proposed Rule

In this proposed rule, we are setting forth proposed changes to the Medicare hospital inpatient prospective payment systems for operating costs and for capital-related costs in FY 2002. We also are proposing changes relating to payments for GME costs and payments to excluded hospitals and units and CAHs. The proposed changes would be

effective for discharges occurring on or after October 1, 2001.

The following is a summary of the major changes that we are proposing to make:

1. Proposed Changes to the DRG Reclassifications and Recalibrations of Relative Weights

As required by section 1886(d)(4)(C) of the Act, we adjust the DRG classifications and relative weights annually. Based on analyses of Medicare claims data, we are proposing to establish a number of new DRGs and make changes to the designation of diagnosis and procedure codes under other existing DRGs. Our proposed changes for FY 2002 are set forth in section II. of this preamble.

We also address the provisions of section 533 of Public Law 106–544 regarding development of a mechanism for adequate payment for new medical services and technologies and the required report to Congress on expeditiously introducing new medical services and technology into the DRGs.

2. Proposed Changes to the Hospital Wage Index

In section III. of this preamble, we discuss proposed revisions to the wage index and the annual update of the wage data. Specific issues addressed in this section include the following:

- The FY 2002 wage index update, using FY 1998 wage data.
- The transition to excluding from the wage index Part A physician wage costs that are teaching-related, as well as resident and Part A certified registered nurse anesthetist (CRNA) costs.
- The costs of contracted pharmacy and laboratory services.
- The collection of occupational mix data, as required by section 304(c) of Public Law 106–554.
- Revisions to the wage index based on hospital redesignations and reclassifications, including changes to reflect the provisions of sections 304(a) and (b) of Public Law 106–554 relating to 3-year wage index reclassifications by the MGCRB, the use of 3 years of wage data for evaluating reclassification requests for FYs 2003 and later, and the application of a statewide wage index for reclassifications beginning in FY 2003.
- Requests for wage data corrections and modification of the process and timetable for updating the wage index, and a proposed revision of that timetable.

3. Other Decisions and Proposed Changes to the Prospective Payment System for Inpatient Operating and Graduate Medical Education Costs

In section IV. of this preamble, we discuss several provisions of the regulations in 42 CFR Parts 412 and 413 and set forth certain proposed changes concerning the following:

- Sole community hospitals.
- Rural referral centers.
- Changes relating to the IME adjustment as a result of section 302 of Public Law 106–554.
- Changes relating to the DSH adjustment as a result of section 303 of Public Law 106–554.
- The establishment of policies relating to the 3-year application of wage index reclassifications by the MGCRB, the use of 3 years of wage data in evaluating reclassification requests to the MGCRB for FYs 2003 and later, and the use of a statewide wage index for reclassifications beginning in FY 2003, as required by sections 304(a) and (b) of Public Law 106–554.
- Proposed requirements for additional payments for new medical services and technology, as required by section 533(b) of Public Law 106–554.
- Changes relating to payment for the direct costs of GME, including changes as a result of section 511 of Public Law 106–554.

4. Prospective Payment System for Capital-Related Costs

In section V. of this preamble, we specify the proposed payment requirements for capital-related costs, including the special exceptions payment, beginning October 1, 2002.

5. Proposed Changes for Hospitals and Hospital Units Excluded from the Prospective Payment Systems

In section VI. of this preamble, we discuss the following proposals concerning excluded hospital and hospital units and CAHs:

- Limits on and adjustments to the proposed target amounts for FY 2002.
- Revision of the methodology for wage neutralizing the hospital-specific target amounts using preclassified wage data.
- Updated caps for new excluded hospitals and units as well as changes in the effective date of classifications of excluded hospitals and units.
- The prospective payment system for inpatient rehabilitation hospitals and units.
- Payments to CAHs, including exclusion from the payment window requirements; the availability of CRNA pass-through payments; payment for emergency room on-call physicians; treatment of ambulance services; the use of certain qualified practitioners for preanesthesia and postanesthesia evaluations; and clarification of location requirements for CAHs.

6. Determining Prospective Payment Operating and Capital Rates and Rate-of-Increase Limits

In the Addendum to this proposed rule, we set forth proposed changes to the amounts and factors for determining the FY 2002 prospective payment rates for operating costs and capital-related costs. We also establish the proposed threshold amounts for outlier cases. In addition, we address update factors for determining the rate-of-increase limits for cost reporting periods beginning in FY 2002 for hospitals and hospital units excluded from the prospective payment system.

7. Impact Analysis

In Appendix A, we set forth an analysis of the impact that the proposed changes described in this proposed rule would have on affected entities.

8. Capital Acquisition Model

Appendix B contains the technical appendix on the proposed FY 2002 capital cost model.

9. Report to Congress on the Update Factor for Hospitals Under the Prospective Payment System and Hospitals and Units Excluded From the Prospective Payment System

Section 1886(e)(3) of the Act requires the Secretary to report to Congress on our initial estimate of a recommended update factor for FY 2002 for payments to hospitals included in the prospective payment systems, and hospitals excluded from the prospective payment systems. This report is included as Appendix C to this proposed rule.

10. Proposed Recommendation of Update Factor for Hospital Inpatient Operating Costs

As required by sections 1886(e)(4) and (e)(5) of the Act, Appendix D provides our recommendation of the appropriate percentage change for FY 2002 for the following:

- Large urban area and other area average standardized amounts (and hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals) for hospital inpatient services paid for under the prospective payment system for operating costs.
- Target rate-of-increase limits to the allowable operating costs of hospital inpatient services furnished by hospitals

and hospital units excluded from the prospective payment system.

11. Discussion of Medicare Payment Advisory Commission Recommendations

Under section 1805(b) of the Act, the Medicare Payment Advisory Commission (MedPAC) is required to submit a report to Congress, not later than March 1 of each year, that reviews and makes recommendations on Medicare payment policies. This annual report makes recommendations concerning hospital inpatient payment policies. In section VII. of this preamble, we discuss the MedPAC recommendations and any actions we are proposing to take with regard to them (when an action is recommended). For further information relating specifically to the MedPAC March 1 report or to obtain a copy of the report, contact MedPAC at (202) 653–7220 or visit MedPAC's website at: www.medpac.gov.

II. Proposed Changes to DRG Classifications and Relative Weights

A. Background

Under the prospective payment system, we pay for inpatient hospital services on a rate per discharge basis that varies according to the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case takes an individual hospital's payment rate per case and multiplies it by the weight of the DRG to which the case is assigned. Each DRG weight represents the average resources required to care for cases in that particular DRG relative to the average resources used to treat cases in all DRGS.

Congress recognized that it would be necessary to recalculate the DRG relative weights periodically to account for changes in resource consumption. Accordingly, section 1886(d)(4)(C) of the Act requires that the Secretary adjust the DRG classifications and relative weights at least annually. These adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. The proposed changes to the DRG classification system, and the proposed recalibration of the DRG weights for discharges occurring on or after October 1, 2001, are discussed below.

B. DRG Reclassification

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). Medicare fiscal intermediaries enter the information into their claims processing systems and subject it to a series of automated screens called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before classification into a DRG.

After screening through the MCE and any further development of the claims, cases are classified into the appropriate DRG by the Medicare GROUPER software program. The GROUPER program was developed as a means of classifying each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). It is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment. The records for all Medicare hospital inpatient discharges are maintained in the Medicare Provider Analysis and Review (MedPAR) file. The data in this file are used to evaluate possible DRG classification changes and to recalibrate the DRG weights.

In the July 30, 1999 final rule (64 FR 41500), we discussed a process for considering non-MedPAR data in the recalibration process. In order for the use of particular data to be feasible, we must have sufficient time to evaluate and test the data. The time necessary to do so depends upon the nature and quality of the data submitted. Generally, however, a significant sample of the data should be submitted by August 1, approximately 8 months prior to the publication of the proposed rule, so that we can test the data and make a preliminary assessment as to the feasibility of using the data. Subsequently, a complete database should be submitted no later than December 1 for consideration in conjunction with the next year's proposed rule.

Currently, cases are assigned to one of 503 DRGs (including one DRG for a diagnosis that is invalid as a discharge diagnosis and one DRG for ungroupable diagnoses) in 25 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body (for example, MDC 6 (Diseases and Disorders of the Digestive System)). However, some MDCs are not constructed on this basis because they involve multiple organ systems (for example, MDC 22 (Burns)).

In general, cases are assigned to an MDC based on the principal diagnosis, before assignment to a DRG. However, there are five DRGs to which cases are directly assigned on the basis of procedure codes. These are the DRGs for liver, bone marrow, and lung transplants (DRGs 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483). Cases are assigned to these DRGs before classification to an MDC.

Within most MDCs, cases are then divided into surgical DRGs (based on a surgical hierarchy that orders individual procedures or groups of procedures by resource intensity) and medical DRGs. Medical DRGs generally are differentiated on the basis of diagnosis and age. Some surgical and medical DRGs are further differentiated based on the presence or absence of complications or comorbidities (CC).

Generally, the GROUPER does not consider other procedures; that is, nonsurgical procedures or minor surgical procedures generally not performed in an operating room are not listed as operating room (OR) procedures in the GROUPER decision tables. However, there are a few non-OR procedures that do affect DRG assignment for certain principal diagnoses, such as extracorporeal shock wave lithotripsy for patients with a principal diagnosis of urinary stones.

The major changes we are proposing to make to the DRG classification system for FY 2002 are summarized in Charts 1, 2, and 3 below, followed by detailed discussions in individual sections according to MDC assignment. Other issues concerning DRGs are also set forth below. Unless otherwise noted, our DRG analysis is based on data from 100 percent of the FY 2000 MedPAR file containing hospital bills received through May 31, 2000 for discharges in FY 2000.

CHART 1.—SUMMARY OF PROPOSED CHANGES IN DRG ASSIGNMENTS

Diagnosis related groups (DRGs)	Added as new	Removed
Pre-MDC:		
DRG 512 (Simultaneous Pancreas/Kidney Transplant)	X	
DRG 513 (Pancreas Transplants)	X	
MDC 5 (Diseases and Disorders of the Circulatory System):		
DRG 112 (Percutaneous Cardiovascular Procedures)		X
DRG 514 (Cardiac Defibrillator Implant with Cardiac Catheterization)	X	
DRG 515 (Cardiac Defibrillator Implant without Cardiac Catheterization)	X	
DRG 516 (Percutaneous Cardiovascular Procedures with Acute Myocardial Infarction (AMI))	X	
DRG 517 (Percutaneous Cardiovascular Procedures without AMI, with Coronary Artery Stent Implant	X	
DRG 518 (Percutaneous Cardiovascular Procedures without AMI, without Coronary Artery Stent Implant	X	
MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue):		
DRG 519 (Cervical Spinal Fusion with CC)	X	
DRG 520 (Cervical Spinal Fusion without CC)	X	
MDC 20 (Alcohol/Drug Use and Alcohol/Drug-Induced Organic Mental Disorders):		
DRG 434 Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment with CC)		X
DRG 435 (Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment without CC)		X
DRG 436 (Alcohol/Drug Dependence with Rehabilitation Therapy)		X
DRG 437 (Alcohol/Drug Dependence, Combined Rehabilitation and Detoxification Therapy)		X
DRG 521 (Alcohol/Drug Abuse or Dependence with CC)	X	
DRG 522 (Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy)	X	
DRG 523 (Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy)	X	

CHART 2.—SUMMARY OF PROPOSED ASSIGNMENT OR REASSIGNMENT OF DIAGNOSIS OR PROCEDURE CODES IN EXISTING DRGS

Diagnosis/procedure codes	Removed from DRG	Reassigned to DRG
MDC 5 (Diseases and Disorders of the Circulatory System):		
Principal Diagnosis Code:		
410.01 Acute myocardial infarction of anterolateral wall, initial episode of care.	116	516
410.11 Acute myocardial infarction of other anterior wall, initial episode of care.	116	516
410.21 Acute myocardial infarction of inferolateral wall, initial episode of care.	116	516
410.31 Acute myocardial infarction of inferoposterior wall, initial episode of care.	116	516
410.41 Acute myocardial infarction of other inferior wall, initial episode of care.	116	516
410.51 Acute myocardial infarction of other lateral wall, initial episode of care.	116	516
410.61 True posterior wall infarction, initial episode of care	116	516
410.71 Subendocardial infarction, initial episode of care	116	516
410.81 Acute myocardial infarction of other specified sites, initial episode of care.	116	516
410.91 Acute myocardial infarction of unspecified site, initial episode of care	116	516
Procedure Codes:		
37.94 Implantation or replacement of automatic cardioverter/defibrillation, total system (AICD).	104, 105	514, 515
37.95 Implantation of automatic cardioverter/defibrillator lead(s) only	104, 105	514, 515
37.96 Implantation of automatic cardioverter/defibrillator pulse generator only.	104, 105	514, 515
37.97 Replacement of automatic cardioverter/ defibrillator lead(s) only	104, 105	514, 515
37.98 Replacement of automatic cardioverter/defibrillator pulse generator only.	104, 105	514, 515
Operating Room Procedures:		
35.96 Percutaneous valvuloplasty	116	516, 517, 518
36.01 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy without mention of thrombolytic agent.	116	516, 517, 518
36.02 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy with mention of thrombolytic agent.	116	516, 517, 518
36.05 Multiple vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy performed during the same operation, with or without mention of thrombolytic agent.	116	516, 517, 518
36.09 Other removal of coronary artery obstruction	116	516, 517, 518
37.34 Catheter ablation of lesion or tissues of heart	116	516, 517, 518
92.27 Implantation or insertion of radioactive elements	Non–OR in MDC–5	517
Nonoperating Room Procedures:		
36.06 Insertion of coronary artery stent(s)	116	517
37.21 Right heart cardiac catheterization	104	514

CHART 2.—SUMMARY OF PROPOSED ASSIGNMENT OR REASSIGNMENT OF DIAGNOSIS OR PROCEDURE CODES IN EXISTING DRGS—Continued

Diagnosis/procedure codes	Removed from DRG	Reassigned to DRG
37.22 Left heart cardiac catheterization	104	514
37.23 Right and left heart cardiac catheterization	104	514
37.26 Cardiac electrophysiologic stimulation and recording studies	104, 112	514, 516, 517, 518
37.27 Cardiac mapping	112	516, 517, 518
88.52 Angiocardiography of right heart structures	104	514
88.53 Angiocardiography of left heart structures	104	514
88.54 Combined right and left heart angiocardiography	104	514
88.55 Coronary arteriography using a single catheter	104	514
88.56 Coronary arteriography using two catheters	104	514
88.57 Other and unspecified coronary arteriography	104	514
88.58 Negative-contrast cardiac roentgenography	104	514
MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue):		
Procedure Codes:		
81.02 Other cervical fusion, anterior technique	497, 498	519, 520
81.03 Other cervical fusion, posterior technique	497, 498	519, 520
MDC 15 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period)		
Diagnosis Codes:		
773.0 Hemolytic disease due to RH isoimmunization	389	390
773.1 Hemolytic disease due to ABO isoimmunization	389	390
Secondary Diagnosis Codes:		
478.1 Other diseases of nasal cavity and sinuses	390	391
520.6 Disturbances in tooth eruption	390	391
623.8 Other specified noninflammatory disorders of vagina	390	391
709.00 Dyschroma, unspecified	390	391
709.01 Vitiglio	390	391
709.09 Dyschromia, Other	390	391
744.1 Accessory Auricle	390	391
754.61 Congenital pes planus	390	391
757.33 Congenital pigmentary anomalies of skin	390	391
757.39 Other specified anomaly of skin	390	391
764.08 ''Light for dates'' without mention of fetal malnutrition, 2,000–2,499 grams.	390	391
764.98 Fetal growth retardation, unspecified, 2,000–2,499 grams	390	391
772.6 Cutaneous hemorrhage	390	391
794.15 Abnormal and auditory function studies	390	391
796.4 Other abnormal clinical findings	390	391
V20.2 Routine infant or child health check	390	391
V72.1 Examination of ears and hearing	390	391

CHART 3.—SUMMARY OF PROPOSED RETITLED DRGS

MDC	DRG No.	Current name	Proposed name
MDC 5	DRG 116	Other Permanent Cardiac Pacemaker Implantation, or PTCA, with Coronary Artery Stent Implant.	Other Cardiac Pacemaker Implantation.
MDC 8	DRG 497	Spinal Fusion with CC	Spinal Fusion except Cervical with CC.
MDC 8	DRG 498	Spinal Fusion without CC	Spinal Fusion except Cervical without CC.

2. MDC 5 (Diseases and Disorders of the Circulatory System)

a. Removal of Defibrillator Cases From DRGs 104 and 105

DRGs 104 (Cardiac Valve & Other Major Cardiothoracic Procedures with Cardiac Catheterization) and 105 (Cardiac Valve & Other Major Cardiothoracic Procedures without Cardiac Catheterization) include the replacement or open repair of one or more of the four heart valves. These valves may be diseased or damaged, resulting in either leakage or restriction of blood flow to the heart, compromising the ability of the heart to pump blood. This procedure requires the use of a heart-lung bypass machine, as the heart must be stilled and opened to repair or replace the valve.

Cardiac defibrillators are implanted to correct episodes of fibrillation (very fast heart rate) caused by malfunction of the conduction mechanism of the heart. Through implanted cardiac leads, the defibrillator mechanism senses changes in heart rhythm. When very fast heart rates occur, the defibrillator produces a burst of electric current through the leads to restore the normal heart rate. An implanted defibrillator constantly monitors heart rhythm. The implantation of this device does not require the use of a heart-lung bypass machine, and would be expected to be very different in terms of resource usage, although both procedures currently group to DRGs 104 and 105.

As part of our ongoing review of DRGs, we examined Medicare claims data on DRG 104 and DRG 105. We reviewed 100 percent of the FY 2000 MedPAR file containing hospital bills received through May 31, 2000, for

discharges in FY 2000, and found that the average charges across all cases in DRG 104 were $84,060, while the average charges across all cases in DRG 105 were $66,348. Carving out code 37.94 (Implantation or replacement of automatic cardioverter/defibrillator, total system [AICD]) from DRGs 104 and 105 increased those average charges to $91,366 for DRG 104 and $67,323 for DRG 105. We identified 11,021 defibrillator cases in DRG 104 (out of 25,112 total cases), with average charges of $74,719, and 2,434 defibrillator cases in DRG 105 (out of 20,094 total cases), with average charges of $59,267.

We performed additional review on cases containing code 37.95 (Implantation of automatic cardioverter/defibrillator lead(s) only) with code 37.96 (Implantation of automatic cardioverter/defibrillator pulse generator only) and on cases containing code 37.97 (Replacement of automatic cardioverter/defibrillator lead(s) only) with code 37.98 (Replacement of automatic cardioverter/defibrillator pulse generator only). This subgrouping contained only 56 patients. The average charges for the 18 patients in DRG 104 were $58,847. The average charges for the 38 patients in DRG 105 were $54,891.

Because we believe the defibrillator cases are significantly different from other cases in DRGs 104 and 105, we are proposing to create two new DRGs: DRG 514 (Cardiac Defibrillator Implant with Cardiac Catheterization) and DRG 515 (Cardiac Defibrillator Implant without Cardiac Catheterization).

We are proposing to remove procedure codes 37.94, 37.95 and 37.96, and 37.97 and 37.98 from DRGs 104 and 105 to form the new DRGs 514 and 515. The proposed new DRGs 514 and 515 would include principal diagnosis codes and procedure codes as reflected in Chart 4 below:

CHART 4.—COMPOSITION OF PROPOSED NEW DRGS 514 AND 515 IN MDC 5

Diagnosis and procedure codes	Included in proposed DRG 514	Included in proposed DRG 515
Principal Diagnosis Codes:		
All of the principal diagnosis codes assigned to MDC–5	X	X
Principal or Secondary Procedure Code:		
37.94 Implantation or replacement of automatic cardioverter/defibrillation, total system (AICD)	X	X
Combination Operating Procedure Codes:		
37.95 Implantation of automatic cardioverter/defibrillator lead(s) only; plus		
37.96 Implantation of automatic cardioverter/defibrillator pulse generator only;	X	X
Or		
37.97 Replacement of automatic cardioverter/defibrillator lead(s) only; plus		
37.98 Replacement of automatic cardioverter/defibrillator pulse generator only	X	X
Plus: One of the Following Nonoperating Room Procedure Codes:		
37.21 Right heart cardiac catheterization	X	
37.22 Left heart cardiac catheterization	X	
37.23 Combined right and left heart cardiac catheterization	X	
37.26 Cardiac electrophysiologic stimulation and recording studies	X	
88.52 Angiocardiography of right heart structures	X	
88.53 Angiocardiography of left heart structures	X	
88.54 Combined right and left heart angiocardiography	X	
88.55 Coronary arteriography using a single catheter	X	
88.56 Coronary arteriography using two catheters	X	
88.57 Other and unspecified coronary arteriography	X	
88.58 Negative-contrast cardiac roentgenography	X	

b. Percutaneous Cardiovascular Procedures

We reviewed other DRGs within MDC 5 in order to determine if there were also logic changes that could be made to these DRGs. The data was arrayed in a variety of ways displaying myriad permutations, resulting in the following proposed changes. A percutaneous transluminal coronary angioplasty (PTCA) is an acute intervention intended to minimize cardiac damage by restarting circulation to the heart. Some patients with an acute myocardial infarction (AMI) are now treated by performing a PTCA during the hospitalization for the AMI. Currently, PTCAs with a coronary stent implant are assigned to DRG 116 (Other Permanent Cardiac Pacemaker Implantation, or PTCA with Coronary Artery Stent Implant), along with pacemaker implants. The remaining percutaneous cardiovascular procedures are assigned to DRG 112 (Percutaneous Cardiovascular Procedures).

The volume of percutaneous cardiovascular procedures has grown dramatically, with 186,669 cases identified in the FY 2000 MedPAR file containing hospital bills submitted through May 31, 2000. Because of the high volume, we decided to review the DRG for percutaneous cardiovascular procedures. As a first step in the evaluation, we combined the percutaneous cardiovascular procedures from DRGs 112 and 116. We then subdivided the combined percutaneous cardiovascular procedure group into two groups based on the principal diagnosis (Pdx) of AMI.

Group	Count	Average charge
With Pdx of AMI	50,442	$31,722
Without Pdx of AMI	136,227	23,989

Each of these groups was further evaluated by subdividing them based on whether a coronary stent was implanted. The vast majority of patients with an AMI had a coronary stent implanted. Patients without an AMI were subdivided into two groups based on whether a coronary stent was implanted.

Group	Count	Average charge
Without Pdx of AMI with stent	111,441	$24,745

Group	Count	Average charge
Without Pdx of AMI without stent	24,786	20,589

Based on this analysis, we are proposing to remove the PTCAs with coronary artery stent from DRG 116, thus limiting DRG 116 to permanent cardiac pacemaker implantation. This removal will leave approximately 68,000 non-PTCA cases in DRG 116.

In conjunction with this evaluation, we considered a new technology, intravascular brachytherapy, that is being used to treat coronary in-stent stenosis. A gamma-radiation-impregnated tape is threaded through the affected vessel for a specified amount of dwell time, and then the tape is removed. Intravascular brachytherapy was approved by the Food and Drug Administration in November 2000.

Intravascular brachytherapy is assigned to procedure code 92.27 (Implantation or insert of radioactive elements). With the use of angioplasty, these cases are currently assigned to DRG 112 (Percutaneous Cardiovascular Procedures). Therefore, cases involving this new technology will be implicated by these proposed changes.

We are proposing to retitle DRG 116 ''Other Cardiac Pacemaker Implantation,'' remove DRG 112, and create three new DRGs: DRG 516 (Percutaneous Cardiovascular Procedures with Acute Myocardial Infarction (AMI)); DRG 517 (Percutaneous Cardiovascular Procedures without AMI, with Coronary Artery Stent Implant; and DRG 518 (Percutaneous Cardiovascular Procedures without AMI, without Coronary Artery Stent Implant). The principal diagnosis codes and operating room and nonoperating room procedure codes that are proposed to be included in the new DRGs 516, 517, and 518 are reflected in Chart 5.

In order to be assigned to new DRG 516, cases must contain one of the principal diagnoses *plus* the operating room procedures listed in Chart 5. Because DRG 516 contains acute myocardial infarction, which is hierarchically ordered before DRGs 517 and 518, any AMI cases also containing codes 92.27 or 36.06 would automatically be assigned to DRG 516. We are proposing to assign patients with a percutaneous cardiovascular procedure and intravascular radiation treatment to new DRG 517. As more data become available, we will reassess the assignment of intravascular radiation treatment to DRG 517. Proposed new DRG 518 would contain the same operating room and nonoperating room procedures as new proposed DRG 517, with the exception of codes 92.27 and 36.06.

CHART 5.—COMPOSITION OF PROPOSED NEW DRGS 516, 517, AND 518 IN MDC 5

Diagnosis and procedure codes	Included in Proposed DRG 516	Included in Proposed DRG 517	Included in Proposed DRG 518
Principal Diagnosis Codes:			
410.01 Acute myocardial infarction of anterolateral wall, initial episode of care	X		
410.11 Acute myocardial infarction of other anterior wall, initial episode of care	X		
410.21 Acute myocardial infarction of inferolateral wall, initial episode of care	X		
410.31 Acute myocardial infarction of inferoposterior wall, initial episode of care	X		
410.41 Acute myocardial infarction of other inferior wall, initial episode of care	X		
410.51 Acute myocardial infarction of other lateral wall, initial episode of care	X		
410.61 True posterior wall infarction, initial episode of care	X		
410.71 Subendocardial infarction, initial episode of care	X		
410.81 Acute myocardial infarction of other specified sites, initial episode of care.	X		
410.91 Acute myocardial infarction of unspecified site, initial episode of care	X		
plus: Operating Room Procedures:			
35.96 Percutaneous valvuloplasty	X	X	X
and			
36.01 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy without mention of thromolytic agent	X	X	X
or			
36.02 Single vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy with mention of thrombolytic agent	X	X	X
or			
36.05 Multiple vessel percutaneous transluminal coronary angioplasty (PTCA) or coronary atherectomy performed during the same operation, with or without mention of thrombolytic agent	X	X	X
and			
36.09 Other removal of coronary artery obstruction	X	X	X
and			
37.34 Catheter ablation of lesion or tissues of heart	X	X	X
92.27 Implantation or insertion of radioactive elements		X	
OR: Nonoperating Room Procedures:			
36.06 Insertion of coronary artery stent(s)		X	
37.26 Cardiac electrophysiologic stimulation and recording studies	X	X	X
37.27 Cardiac mapping	X	X	X

DRG 121 (Circulatory Disorders with AMI and Major Complication, Discharged Alive), DRG 122 (Circulatory Disorders with AMI without Major Complication, Discharged Alive), and DRG 123 (Circulatory Disorders with AMI, Expired) are not affected by these changes.

c. Removal of Heart Assist Systems

The ICD–9–CM Coordination and Maintenance Committee considered the nonoperative removal of heart assist systems at its November 17, 2000 meeting. A device called the intra-aortic balloon pump (IABP) is one of the most common types of ventricular assist systems. A balloon catheter is placed

into the patient's descending thoracic aorta, and inflates and deflates with each heartbeat. This device is timed with the patient's own heart rhythm, and inflates and circulates blood to the heart and other organs. This allows the heart to rest and recover. The IABP may be used preoperatively, intraoperatively, or postoperatively. It supports the patient from a few hours to several days.

Code 37.64 (Removal of heart assist system) already exists, and it is considered by the GROUPER to be an operative procedure. However, the nonoperative removal of a heart assist system can be done at the patient's bedside, is noninvasive, and requires no anesthesia. Therefore, the Committee created code 97.44 (Nonoperative removal of heart assist system) for use with discharges beginning on or after October 1, 2001.

In the past, we have assigned new ICD–9–CM codes to the same DRG to which the predecessor code was assigned. If this practice were to be followed, we would have proposed that code 97.44 be assigned to MDC 5, DRGs 478 (Other Vascular Procedures with CC) and 479 (Other Vascular Procedures without CC). After hospital charge data became available, we would have considered moving it to other DRGs. However, in accordance with section 533(a) of Public Law 106–554, which requires a more expeditious technique of recognizing new medical services or technology for the hospital inpatient prospective payment system, we will reconsider this longstanding practice when possible. Therefore, as code 97.44 was designed to capture heart assist system removal that is clearly nonoperative, we are not proposing to designate 97.44 as a code which the GROUPER recognizes as a procedure. This assignment can be found in Table 6B, New Procedure Codes in the addendum to this proposed rule. Therefore, these cases will be assigned by the GROUPER to a medical DRG based on the principal diagnosis, or to a surgical DRG if a surgical procedure recognized by the GROUPER is performed.

3. MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue)

a. Refusions

We have received questions from correspondents regarding the appropriateness of the spinal fusion DRGs: DRG 496 (Combined Anterior/Posterior Spinal Fusion); DRG 497 (Spinal Fusion with CC); and DRG 498 (Spinal Fusion without CC). Several correspondents expressed concern about the inclusion of all refusions of the spine into one procedure code, 81.09 (Refusion of spine, any level or technique). The correspondents pointed out that because all refusions using any technique or level are in this one code, all of these cases are assigned to DRG 497 and DRG 498. They also pointed out that fusion cases involving both an anterior and posterior technique are assigned to DRG 496. Although cases with the refusion code that involve anterior and posterior techniques would appear to be more appropriately assigned to DRG 496, this is not the case.

We recognized this limitation in the refusion codes and further acknowledged that this limitation in the ICD–9–CM coding system creates DRG problems by preventing the assignment to DRG 496 even when both anterior and posterior techniques are used for refusion cases. Therefore, we referred the issue to the ICD–9–CM Coordination and Maintenance Committee and requested the Committee to consider code revisions for the refusions of the spine during its year 2000 public meetings.

After its deliberations, the Committee approved a series of new procedure codes for refusion of the spine that could lead to improvements within DRGs 497 and 498. These new codes, listed below, go into effect on October 1, 2001.

81.30 Refusion of spine, not otherwise specified
81.31 Refusion of atlas-axis spine
81.32 Refusion of other cervical spine, anterior technique
81.33 Refusion of other cervical spine, posterior technique
81.34 Refusion of dorsal and dorsolumbar spine, anterior technique
81.35 Refusion of dorsal and dorsolumbar spine, posterior technique
81.36 Refusion of lumbar and lumbosacral spine, anterior technique
81.37 Refusion of lumbar and lumbosacral spine, lateral transverse process technique
81.38 Refusion of lumbar and lumbosacral spine, posterior technique
81.39 Refusion of spine, not elsewhere classified

As previously stated, all refusions of the spine and corrections of the pseudarthrosis of the spine are assigned to code 81.09. Code 81.09, which is always assigned to DRG 497 or DRG 498, includes refusions at any level of the spine using any technique. With the creation of the new procedure codes listed above, it will be possible to determine the level of the spine at which the refusion is performed, as well as the technique used, and assign the case to a more appropriate DRG.

These new procedure codes should greatly improve our ability to determine the level and technique used in the refusion.

In the past, we have assigned new ICD–9–CM codes to the same DRG to which the predecessor code was assigned. If this practice were followed, these new codes would have been assigned to DRG 497 and 498 as they are currently. After data became available, we would have considered moving them to other DRGs. However, in accordance with section 533(a) of Public Law 106–554, which requires more expeditious methods of recognizing new medical services or technology under the inpatient hospital prospective payment system, we will reconsider this longstanding practice when possible. Since the new codes clearly allow us to identify cases where the technique was either anterior or posterior and these cases are clinically similar and, therefore, should be handled in the same fashion, we are proposing to immediately assign these cases on the same basis as the fusion codes (81.00 through 81.09). We would not wait for actual claims data before making this change. These proposed assignments are reflected in Chart 6 and also can be found in Table 6B, in section V. of the Addendum to this proposed rule.

b. Fusion of Cervical Spine

We have received an additional inquiry concerning the spinal DRGs that focused on fusions of the cervical spine. The inquirer stated that there was a significant difference between inpatients who undergo anterior cervical spinal fusion and other types of spinal fusion in regard to treatment, recovery time, costs, and risk of complications. Anterior cervical spinal fusions are assigned to procedure code 81.02, Other cervical fusion, anterior technique. The inquirer pointed out that anterior cervical fusions differ significantly from anterior techniques at other levels since the anatomic approach is far less invasive. Thoracic anterior techniques require working around the cardiac and respiratory systems in the chest cavity, while lumbar anterior working around bowel and digestive system and the abdominal muscles. The inquirer recommended that code 81.02 be removed from DRGs 497 and 498 and grouped separately.

We analyzed claims data from 100 percent of the FY 2000 MedPAR file containing hospital bills received through May 31, 2000, and confirmed

that charges are lower for fusions of the cervical spine than fusions of the thoracic and lumbar spine. This was true for both anterior and posterior cervical fusions of the spine. Our medical consultants agree that the data and their clinical analysis support the creation of new DRGs for cervical fusions of the spine. Therefore, we are proposing to remove procedure codes 81.02 and 81.03 from the spinal fusion DRGs (currently, DRGs 497 and 498) and assign them to new DRGs for cervical spinal fusion with and without CC. We are proposing to make four groupings for fusion DRGs. We believe that the net effect of this proposal would be an increase in the weights for DRGs 497 and 498, since the lower charges for the cervical fusions would be removed. The average standardized charge for all spinal fusions with CCs was $26,957. For all spinal fusions without CCs, the average charge was $16,492. The table below also shows average standardized charges for these types of cases before and after the proposed revisions.

Proposed revised spinal fusion DRGs	Average charge before proposed revisions	Average charge after revisions
DRG 497 Spinal Fusion Except Cervical with CC	$26,957	$36,821
DRG 498 Spinal Fusion Except Cervical without CC	17,492	26,297
DRG 519 Cervical Spinal Fusion with CC	.....	26,957
DRG 520 Cervical Spinal Fusion without CC	.....	16,492

Based on the proposed groupings, we would create two new DRGs: DRG 519 (Cervical Spinal Fusion with CC); and DRG 520 (Cervical Spinal Fusion without CC). The procedure codes that would be included in the proposed DRGs 519 and 520 are reflected in Chart 6 below.

We are also proposing to add the new ICD–9-CM procedure codes for refusion of the cervical spine (81.32 and 81.33) to the new cervical spine fusion DRGs because they are clinically similar.

We are proposing to retitle DRG 497 ''Spinal Fusion Except Cervical with CC'' and DRG 498 ''Spinal Fusion Except Cervical without CC.'' The retitled DRGs 497 and 498 would retain fusion codes 81.00, 81.01, and 81.04 through 81.08 and include the proposed new refusion codes 81.30, 81.31, and 81.34 through 81.39, as reflected in Chart 6 below.

c. Posterior Spinal Fusion

We received other correspondence regarding the current DRG assignment for code 81.07, Lumbar and lumbosacral fusion, lateral transverse process technique. The correspondent stated that physicians consider code 81.07 to be a posterior procedure. The patient is placed prone on the operating table and the spine is exposed through a vertical midline incision. The correspondent pointed out that code 81.07 is not classified as a posterior procedure within DRG 496 (Combined Anterior/Posterior Spinal Fusion). Therefore, when 81.07 is reported with one of the anterior techniques fusion codes, it is not assigned to DRG 496. The correspondent recommended that code 81.07 be added to the list of posterior spinal fusion codes for use in determining assignment to DRG 496.

We have consulted with our clinical advisors and they agree that this addition should be made. Since we are proposing to handle the new refusion codes in the same manner as the fusion codes, we also are proposing to assign DRG 496 when 81.37 is used with one of the anterior technique fusion or refusion codes. This would be similar to the manner in which code 81.07 is classified. For assignment to DRG 496, we would consider codes 81.01, 81.04, 81.06, 81.32, 81.34, and 81.36 to be anterior techniques and codes 81.03, 81.05, 81.07, 81.08, 81.33, 81.35, and 81.38 to be posterior techniques.

CHART 6.—PROPOSED REVISED COMPOSITION OF DRGS 496, 497, AND 498 AND PROPOSED COMPOSITION OF PROPOSED DRG 519 AND 520 IN MDC 8

Diagnosis and procedure codes	Existing DRG 496		Proposed to be retained in or added to existing DRG 497	Proposed to be retained in or added to existing DRG 498	Included in proposed DRG 519	Included in proposed DRG 520
	Proposed to be assigned as anterior techniques	Proposed to be assigned as posterior techniques				
Principal or Secondary Procedure Codes:						
81.00 Spinal fusion, not otherwise specified			X	X		
81.01 Atlas-axis fusion			X	X		
81.02 Other cervical fusion, anterior technique	X				X	X
81.03 Other cervical fusion, posterior technique		X			X	X
81.04 Lumbar and lumbosacral fusion, anterior technique	X		X	X		
81.05 Lumbar and lumbosacral fusion, posterior technique		X	X	X		
81.06 Lumbar and lumbosacral fusion, anterior technique	X		X	X		
81.07 Lumbar and lumbosacral fusion, lateral transverse process technique		X	X	X		
81.08 Lumbar and lumbosacral fusion, posterior technique		X	X	X		
81.30 Refusion of spine, not otherwise specified			X	X		
81.31 Refusion of atlas-axis spine			X	X		
81.32 Refusion of other cervical spine, anterior technique	X				X	X

CHART 6.—PROPOSED REVISED COMPOSITION OF DRGS 496, 497, AND 498 AND PROPOSED COMPOSITION OF PROPOSED DRG 519 AND 520 IN MDC 8—Continued

Diagnosis and procedure codes	Existing DRG 496		Proposed to be retained in or added to existing DRG 497	Proposed to be retained in or added to existing DRG 498	Included in proposed DRG 519	Included in proposed DRG 520
	Proposed to be assigned as anterior techniques	Proposed to be assigned as posterior techniques				
81.33 Refusion of other cervical spine, posterior technique		X			X	X
81.34 Refusion of dorsal and dorsolumbar spine, anterior technique	X		X	X		
81.35 Refusion of dorsal and dorsolumbar spine, posterior technique		X	X	X		
81.36 Refusion of lumbar and lumbosacral spine, anterior technique	X		X	X		
81.37 Refusion of lumbar and lumbosacral spine, posterior technique		X	X	X		
81.38 Refusion of lumbar and lumbosacral spine, posterior technique		X	X	X		
81.39 Refusion of spine, not elsewhere classified			X	X		

d. Spinal Surgery

The California Division of Workers' Compensation notified us of a possible problem with the following spinal DRGs:

DRG 496 (Combined Anterior/ Posterior Spinal Fusion)
DRG 497 (Spinal Fusion with CC)
DRG 498 (Spinal Fusion without CC)
DRG 499 (Back & Neck Procedures except Spinal Fusion with CC)
DRG 500 (Back & Neck Procedures except Spinal Fusion without CC)

The Division of Workers' Compensation uses the DRG categories developed by HCFA to classify types of hospital care. However, instead of using HCFA's weights for determining reimbursement for inpatient services, the Division sets a global fee for all inpatient medical services not otherwise exempted. This fee is established by multiplying the product of the DRG weight (or revised DRG weight for a small number of categories) and the health facility's composite factor by 1.20 to get the maximum amount for worker compensation admissions.

The Division of Workers' Compensation has received reports that the formula it uses for reimbursing cases may be providing inadequate reimbursement. California hospitals and orthopedists have reported that certain spinal surgery DRGs (DRGs 496 through 500) may involve different types of care and/or technologies than those in use at the time these groups were formulated. Health care providers in California report ''recent increased use of the new implantation devices, hardware, and instrumentation, coupled with requirements for intensive hospital services accompanying use of new procedures, has led to inadequate reimbursement in these DRGs.'' As a short-term response to these concerns, the California Division of Workers' Compensation is exempting the costs of hardware and instrumentation from the global fee of the fee schedule for DRGS 496 through 500. The Division also requested that HCFA examine these DRGs for any potential problem under the Medicare reimbursement system.

The ICD–9–CM coding system does not capture specific types of implantation devices, hardware, and instrumentation. Therefore, we were not able to verify the claim that these new devices have led to increased costs in specific cases. As discussed in section II.D. of this preamble, we believe that the adoption of a more detailed coding system, such as ICD–10–PCS, would supply greater amounts of detail on these items. However, in the short term, it is not possible to identify a specific problem that involves implantation devices, hardware, and instrumentation.

4. MDC 12 (Diseases and Disorders of the Male Reproductive System)

At its May 11, 2000 public meeting, the ICD–9–CM Coordination and Maintenance Committee considered a request from a manufacturer to create a unique code for the procedure, Penile plethysmography with nerve stimulation, in DRG 334 (Major Male Pelvic Procedures with CC). The penile plethysmography is a test that can be performed during a radical prostatectomy procedure. During the course of the procedure, the physician places a probe within an area where the prostatic nerves are thought to be located and is able to detect minor changes in penile tumescence or detumescence. This reaction tells the physician that the nerve bundles have been located, which may aid the physician in performing a nerve-sparing radical prostatectomy procedure with precision. The nerve bundles can also be restimulated at the conclusion of the procedure, providing immediate feedback as to whether erectile function will be restored after surgery.

After a presentation on the nerve identifying procedure and review of existing ICD–9–CM codes, the ICD–9–CM Coordination and Maintenance Committee determined that the existing code 89.58 (Plethysmogram) adequately describes this test.

Radical prostatectomies for patients with cancer of the prostate are grouped in either DRG 334 (Major Male Pelvic Procedures with CC) or DRG 335 (Major Male Pelvic Procedures without CC). We have received a request from a manufacturer of a nerve-identifying device to assign cases containing code 89.58 into DRG 334 only, not into DRG 335, resulting in higher payments to hospitals. During FY 2001, DRG 334 had a relative weight of 1.5591, and DRG 335 had a relative weight of 1.1697. The manufacturer requested that we designate code 89.58 as an operating room procedure code that would be recognized by the GROUPER software, and make that code applicable only to DRG 334. The manufacturer believed that this would serve to take any cases of nerve sparing out of the lower paying DRG 335, and would make the technology more attractive to hospitals. As paired DRGs 334 and 335 are currently structured, they differ only in whether or not a secondary diagnosis identified as a CC is recorded.

Using 100 percent of the FY 2000 MedPAR file which contains hospital

bills for FY 2000 through May 31, 2000, we examined those cases in DRG 334 to which the procedure code for prostatectomy was assigned. Of the total 7,241 cases in DRG 334 identified, 5,611 of these cases contained procedure code 60.5 (Radical prostatectomy). Only three of the prostatectomy cases included code 89.58. There is not a sufficient number of cases on which to base an assessment of the payment for this procedure. Therefore, we are not proposing to modify the assignment of code 89.58.

5. MDC 15 (Newborns and Other Neonates With Conditions Originating in the Perinatal Period)

DRG 390 (Neonate with Other Significant Problems) contains newborn or neonate cases with other significant problems, not assigned to DRGs 385 through 389, DRG 391, or DRG 469. To be assigned to DRG 389 (Full Term Neonate with Major Problems), the neonate must have one of the principal or secondary diagnosis listed under this DRG. A neonate is assigned to DRG 390 when the neonate has a principal or secondary diagnosis of newborn or neonate with other significant problems that are not assigned to DRG 385 through 389, 391, or 469.

We have received correspondence suggesting a number of changes to be made to DRGs 398 and 391. These changes involve removing two codes from DRG 389 and adding 17 codes to DRG 391, as described below.

a. DRG 389 (Full Term Neonate With Major Problems)

The correspondent suggested removing the following codes from DRG 389 and assigning them to DRG 390:

773.0 Hemolytic disease due to RH isoimmunization
773.1 Hemolytic disease due to ABO isoimmunization

The correspondent stated that hemolytic disease due to RH isoimmunization or due to ABO isoimmunization should not be considered a major problem. The correspondent recommended that these two conditions be classified as significant problems instead and thus assigned to DRG 390.

Our medical consultants sought additional advice from the National Association of Children's Hospitals and Related Institutions (NACHRI). (HCFA contracts with the 3M Health Information Systems to maintain the DRG system. The medical experts at 3M evaluate proposed DRG changes from a clinical perspective. These medical consultants assist HCFA in evaluating alternative proposals.) NACHRI and our medical consultants agree that it is appropriate to remove codes 773.0 and 773.1 from DRG 389. Therefore, we are proposing to remove 773.0 and 773.1 from DRG 389 so that neonates with these conditions are assigned to DRG 390.

b. DRG 391 (Normal Newborn)

We also have received correspondence with recommendations for changes to DRG 391. The correspondent pointed out that the following secondary codes currently lead to the assignment of the neonate to DRG 390 (Neonate with Other Significant Problems). The correspondent believed that the conditions described by these codes should not cause the neonate to be classified under DRG 390 when reported as a secondary diagnosis. The correspondent recommended that these conditions be listed under DRG 391 (Normal Newborn).

478.1 Other diseases of nasal cavity and sinuses
520.6 Disturbances in tooth eruption
623.8 Other specified noninflammatory disorders of vagina
709.00 Dyschroma, unspecified
709.01 Vitiglio
709.09 Dyschromia, Other
744.1 Accesory auricle
754.61 Congenital pes planus
757.33 Congenital pigmentary anomalies of skin
757.39 Other specified anomaly of skin, Other
764.08 ''Light for dates'' without mention of fetal malnutrition, 2,000–2,499 grams
764.98 Fetal growth retardation, unspecified, 2,000–2,499 grams
772.6 Cutaneous hemorrhage
794.15 Abnormal and auditory function studies
796.4 Other abnormal clinical findings
V20.2 Routine infant or child health check
V72.1 Examination of ears and hearing

Our medical consultants also sought the advice of NACHRI on this recommendation. NACHRI reviewed the list of codes and agreed that none of these conditions should be considered to be a significant problem for a neonate. NACHRI concurred that neonates with these secondary diagnoses should be classified as normal newborns. Therefore, we are proposing to add the codes listed above to DRG 391 and not classify them to DRG 390 when reported as a secondary diagnosis.

c. Medicare Code Editor Changes

The Medicare Code Editor (MCE) is a front-end software program that detects and reports errors in the coding of claims data. The age conflict edit detects inconsistencies between a patient's age and any diagnosis on the patient's record. A subset of diagnoses is considered valid only for patients over the age of 14 years. These diagnoses are identified as ''adult'' diagnoses and range in age from 15 through 124 years. Therefore, any codes included on the Newborn Diagnoses edit are valid only for patients under age 14.

It has come to our attention that cases including the ICD–9–CM code 770.7, Chronic respiratory disease arising in the perinatal period, are being rejected. However, a condition such as bronchopulmonary dysplasia always originates in the perinatal period, so regardless of the patient's age, this condition is always coded as 770.7. The age at which the diagnosis was established or the age at continuing treatment does not affect the assignment of code 770.7.

Because correct coding is causing these claims to be rejected, we are proposing to remove code 770.7 from the Newborn Diagnoses edit in the MCE, as well as remove it from DRG 387 (Prematurity with Major Problems) and DRG 389 (Full Term Neonate with Major Problems). Clinical conditions in code 770.7, such as pulmonary fibrosis, would group to DRG 92 (Interstitial Lung Disease with CC) and DRG 93 (Interstitial Lung Disease without CC). Therefore, we are proposing the addition of code 770.7 to DRGs 92 and 93, as they are most similar clinically. We will monitor these cases in upcoming MedPAR data to ascertain that the cases consume similar resources.

6. MDC 20 (Alcohol/Drug Use and Alcohol/Drug-Induced Organic Mental Disorders)

DRG 434 (Alcohol/Drug Abuse or Dependency, Detoxification or Other Symptomatic Treatment with CC is assigned when the patient has a principal diagnosis of alcohol or drug abuse or dependence along with a secondary diagnosis classified as a CC. If these patients do not have a CC, they are assigned to DRG 435 (Alcohol/Drug Abuse or Dependency, detoxification or Other Symptomatic Treatment without CC). When the patients receive rehabilitation and detoxification therapy during the stay, they are assigned to DRG 437 (Alcohol/Drug Dependence, Combined Rehabilitation and Detoxification Therapy). If the patients receive only rehabilitation therapy, they are assigned to DRG 436 (Alcohol/Drug Dependence with Rehabilitation Therapy).

We have received inquiries as to why the relative weight for DRG 437, which includes both rehabilitation and detoxification (for FY 2001, the relative weight is .6606, with a geometric mean length of stay of 7.5) is lower than the FY 2001 relative weight for DRG 434, which includes only detoxification (.7256, with a geometric mean length of stay of 3.9). Likewise, the FY 2001 relative weight for DRG 436, which includes only rehabilitation (.7433), is higher than the FY 2001 relative weight for DRG 437, which includes combined rehabilitation and detoxification therapy (.6606). The inquirers indicated that those patients receiving the combination therapy would be expected to have a longer length of stay, require more services, and, therefore, be more costly to treat.

We analyzed data from 100 percent of the FY 2000 MedPAR file which contains hospital bills received through May 31, 2000, and did not find support for the inquirers' assertion that combination therapy is more costly to treat. The relative weights indicate that the presence of a CC in DRG 434 leads to a significantly higher weight than is found in DRG 435, which does not have a CC. Therefore, we analyzed the alcohol/drug DRGs and focused on eliminating the distinction between rehabilitation and rehabilitation with detoxification and assessing the impact of CCs. We combined data on DRGs 436 and 437 and then subdivided the data based on the presence or absence of a CC. The following table contains the results of the analysis.

AVERAGE CHARGES FOR CASES—WITH AND WITHOUT CCS

DRGs	With CC			Without CC		
	Count	Charge	Length of stay	Count	Charge	Length of stay
Detoxification Cases—DRG 434 and DRG 435	3,298	$8,548	5.0	9,689	$5,111	4.1
All Rehabilitation Cases—DRG 436 and DRG 437	3,298	8,117	10.1	4,473	7,407	9.6

We found that, for both the detoxification and rehabilitation DRGs, the with-CC group has higher charges than the without-CC group. However, the with-CC groups still contain the anomaly that the detoxification DRG 434 has a slightly higher average charge than the combined rehabilitation DRGs 436 and 437. It appears that any significant medical problems as indicated by the presence of a CC dominate the cost incurred by hospitals for treating alcohol and drug abuse patients. For the without-CC groups, the detoxification DRG 435 has substantially lower average charges than the combined rehabilitation DRGs 436 and 437. Because the average charges of the with-CC for both the detoxification DRG 434 and combined rehabilitation DRGs 436 and 437 have similar average charges, we are proposing to combine these two groups.

Based on the results of our analysis, we are proposing to restructure MDC 20 as follows. We first identified those cases with a principal diagnosis within MDC 20 where the patient left against medical advice. These cases are found in DRG 433 (Alcohol/Drug Abuse or Dependence, Left Against Medical Advice (AMA)). We next identified all remaining cases with a principal diagnosis within MDC 20 where there was a CC. We assigned these cases to a proposed new DRG, Alcohol/Drug Abuse or Dependence with CC). The remaining cases (without CC and did not leave against medical advice) were then divided into two proposed new DRGs based on whether or not the patient received rehabilitation (Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy; and Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy).

The following table illustrates the number of patients and average charges for each of the four proposed DRGs.

FREQUENCIES AND AVERAGE CHARGES FOR NEW DRGS

DRG	Group title	Number of cases	Average charges
433	Alcohol/Drug Abuse or Dependence, Left Against Medical Advice	3,509	$3,855
521	Alcohol/Drug Abuse or Dependence with CC	18,235	8,470
522	Alcohol/Drug Abuse or Dependence without CC, with Rehabilitation Therapy	4,473	7,407
523	Alcohol/Drug Abuse or Dependence without CC, without Rehabilitation Therapy	9,689	5,111

This table illustrates that groups based first on the presence of CC and then on whether or not the patient receives rehabilitation therapy provide a much better explanation of differences in charges. Therefore, we are proposing to retain DRG 433, make DRGs 434 through 437 invalid, and create new DRGs 521, 522, and 523 to include the diagnosis and procedure codes reflected in Chart 7 below.

CHART 7.—PROPOSED RESTRUCTURE OF MDC 20

[Alcohol/drug use and alcohol/drug-induced organic mental disorders]

Diagnosis and procedure code	Included in existing DRG 433	Included in proposed DRG 521	Included in proposed DRG 522	Included in proposed DRG 523
Principal diagnosis:				
All principal diagnosis within existing MDC 20 involving cases in which patients left against medical advice (AMA)	X			

CHART 7.—PROPOSED RESTRUCTURE OF MDC 20—Continued

[Alcohol/drug use and alcohol/drug-induced organic mental disorders]

Diagnosis and procedure code	Included in existing DRG 433	Included in proposed DRG 521	Included in proposed DRG 522	Included in proposed DRG 523
All principal diagnoses within existing MDC 20 where there is a CC and where patient did not leave against medical advice (AMA)		X		
All principal diagnoses within existing MDC 20 without CC and where patient did not leave against medical advice (AMA)			X	
All principal diagnoses in existing MDC 20 involving cases where patients did not leave against medical advice (AMA)				X
Procedure Codes:				
94.61 Alcohol rehabilitation			X	
94.63 Alcohol rehabilitation and detoxification			X	
94.64 Drug rehabilitation			X	
94.66 Drug rehabilitation and detoxification			X	
94.67 Combined alcohol and drug rehabilitation			X	
94.69 Combined alcohol and drug rehabilitation and detoxification			X	

7. MDC 25 (Human Immunodeficiency Virus Infections)

Effective October 1, 2000, ICD–9–CM diagnosis codes 783.2 (Abnormal loss of weight) and 783.4 (Lack of expected normal physiological development) were made invalid (65 FR 47171). These two old diagnosis codes were expanded to five digits and the following new diagnosis codes were created:

783.21 Loss of weight
783.22 Underweight
783.40 Unspecified lack of normal physiological development
783.41 Failure to thrive
783.42 Delayed milestones
783.43 Short stature

These six revised codes were created in response to an industry request. Specifically, code 783.2 did not differentiate between whether the patient had lost weight recently or whether the patient was underweight. Code 783.4 was expanded to capture concepts such as failure to thrive, delayed milestones, and short stature. None of these concepts were captured in the old codes.

We listed these new codes in the August 1, 2000 final rule on the hospital inpatient prospective payment system in Table 6A—New Diagnosis Codes (65 FR 47169). At the time the final rule was published, all of these codes were assigned to DRGs 296 through 298. After the final rule was published, we received an inquiry as to why these new diagnosis codes were not included in MDC 25 as human immunodeficiency virus (HIV)-related conditions. The inquirer pointed out that the predecessor codes (783.2 and 783.4) were included in MDC 25 as HIV-related conditions and suggested that the new codes be added to MDC 25. These cases will be assigned to other MDCs if the patient does not have HIV.

We agree that the expanded codes should have been placed in the MDC 25 as HIV-related conditions. The omission was an oversight. Therefore, we are proposing to add diagnosis codes 783.21, 783.22, 783.40, 783.41, 783.42, and 783.43 as HIV-related conditions within MDC 25. When these six revised codes are reported with code 042 HIV, the patient will be classified within MDC 25.

8. Surgical Hierarchies

Some inpatient stays entail multiple surgical procedures, each one of which, occurring by itself, could result in assignment of the case to a different DRG within the MDC to which the principal diagnosis is assigned. Therefore, it is necessary to have a decision rule by which these cases are assigned to a single DRG. The surgical hierarchy, an ordering of surgical classes from resource intensive most least, performs that function. Its application ensures that cases involving multiple surgical procedures are assigned to the DRG associated with the most resource-intensive surgical class.

Because the relative resource intensity of surgical classes can shift as a function of DRG reclassification and recalibration, we reviewed the surgical hierarchy of each MDC, as we have for previous reclassifications, to determine if the ordering of classes coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

A surgical class can be composed of one or more DRGs. For example, in MDC 11, the surgical class ''kidney transplant'' consists of a single DRG (DRG 302) and the class ''kidney, ureter and major bladder procedures'' consists of three DRGs (DRGs 303, 304, and 305). Consequently, in many cases, the surgical hierarchy has an impact on more than one DRG. The methodology for determining the most resource-intensive surgical class involves weighting each DRG for frequency to determine the average resources for each surgical class. For example, assume surgical class A includes DRGs 1 and 2 and surgical class B includes DRGs 3, 4, and 5. Assume also that the average charge of DRG 1 is higher than that of DRG 3, but the average charges of DRGs 4 and 5 are higher than the average charge of DRG 2. To determine whether surgical class A should be higher or lower than surgical class B in the surgical hierarchy, we would weight the average charge of each DRG by frequency (that is, by the number of cases in the DRG) to determine average resource consumption for the surgical class. The surgical classes would then be ordered from the class with the highest average resource utilization to that with the lowest, with the exception of ''other OR procedures'' as discussed below.

This methodology may occasionally result in a case involving multiple procedures being assigned to the lower-weighted DRG (in the highest, most resource-intensive surgical class) of the available alternatives. However, given that the logic underlying the surgical hierarchy provides that the GROUPER searches for the procedure in the most resource-intensive surgical class, this result is unavoidable.

We note that, notwithstanding the foregoing discussion, there are a few instances when a surgical class with a lower average relative weight is ordered above a surgical class with a higher average relative weight. For example, the ''other OR procedures'' surgical class is uniformly ordered last in the surgical hierarchy of each MDC in which it occurs, regardless of the fact that the relative weight for the DRG or

DRGs in that surgical class may be higher than that for other surgical classes in the MDC. The ''other OR procedures'' class is a group of procedures that are least likely to be related to the diagnoses in the MDC but are occasionally performed on patients with these diagnoses. Therefore, these procedures should only be considered if no other procedure more closely related to the diagnoses in the MDC has been performed.

A second example occurs when the difference between the average weights for two surgical classes is very small. We have found that small differences generally do not warrant reordering of the hierarchy since, by virtue of the hierarchy change, the relative weights are likely to shift such that the higher-ordered surgical class has a lower average weight than the class ordered below it.

Based on the preliminary recalibration of the DRGs, we are proposing to modify the surgical hierarchy as set forth below. As we stated in the September 1, 1989 final rule (54 FR 36457), we are unable to test the effects of proposed revisions to the surgical hierarchy and to reflect these changes in the proposed relative weights due to the unavailability of the revised GROUPER software at the time the proposed rule is prepared. Rather, we simulate most major classification changes to approximate the placement of cases under the proposed reclassification and then determine the average charge for each DRG. These average charges then serve as our best estimate of relative resource use for each surgical class. We test the proposed surgical hierarchy changes after the revised GROUPER is received and reflect the final changes in the DRG relative weights in the final rule. Further, as discussed in section II.C. of this preamble, we anticipate that the final recalibrated weights will be somewhat different from those proposed, because they will be based on more complete data. Consequently, further revision of the hierarchy, using the above principles, may be necessary in the final rule.

At this time, we are proposing to revise the surgical hierarchy for the pre-MDC DRGs, MDC 5 (Diseases and Disorders of the Circulatory System), MDC 8 (Diseases and Disorders of the Musculoskeletal System & Connective Tissue) and MDC 20 (Alcohol/Drug Use & Alcohol/Drug Induced Organic Mental Disorders), as these are proposed to be revised under sections II.B.2., II.B.3., and II.B.6. of this preamble, as follows:

- In the pre-MDC DRGs, we are proposing to reorder Lung Transplant (DRG 495) above Bone Marrow Transplant (DRG 481). We are also proposing to reorder Simultaneous Pancreas/Kidney Transplant (DRG 512) and Pancreas Transplant (DRG 513) above Lung Transplant (DRG 495).
- In MDC 5, we are proposing to reorder Cardiac Defibrillator Implants (DRGs 514 and 515) above Other Cardiothoracic Procedures (DRG 108). We are also proposing to reorder Percutaneous Cardiovascular Procedures (DRGs 516, 517, and 518) above Other Vascular Procedures (DRGs 478 and 479).
- In MDC 8, we are proposing to reorder Cervical Spinal Fusion (DRGs 519 and 520) above Back & Neck Procedures Except Spinal Fusion (DRGs 499 and 500).
- In MDC 20, we are proposing to order as follows: Alcohol/Drug Abuse or Dependence, Left AMA (DRG 433) above Alcohol/Drug Abuse or Dependence With CC (DRG 521); Alcohol/Drug Abuse or Dependence With CC (DRG 521) above Alcohol/Drug Abuse or Dependence With Rehabilitation Therapy Without CC (DRG 522); and Alcohol/Drug Abuse or Dependence With Rehabilitation Therapy Without CC (DRG 522) above Alcohol/Drug Abuse or Dependence Without Rehabilitation Therapy Without CC (DRG 523).

9. Refinement of Complications and Comorbidities (CC) List

In the September 1, 1987 final notice (52 FR 33143) concerning changes to the DRG classification system, we modified the GROUPER logic so that certain diagnoses included on the standard list of CCs would not be considered a valid CC in combination with a particular principal diagnosis. Thus, we created the CC Exclusions List. We made these changes for the following reasons: (1) To preclude coding of CCs for closely related conditions; (2) to preclude duplicative coding or inconsistent coding from being treated as CCs; and (3) to ensure that cases are appropriately classified between the complicated and uncomplicated DRGs in a pair. We developed this standard list of diagnoses using physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. In previous years, we have made changes to the standard list of CCs, either by adding new CCs or deleting CCs already on the list. At this time, we do not propose to delete any of the diagnosis codes on the CC list.

In the May 19, 1987 proposed notice (52 FR 18877) concerning changes to the DRG classification system, we explained that the excluded secondary diagnoses were established using the following five principles:

- Chronic and acute manifestations of the same condition should not be considered CCs for one another (as subsequently corrected in the September 1, 1987 final notice (52 FR 33154)).
- Specific and nonspecific (that is, not otherwise specified (NOS)) diagnosis codes for a condition should not be considered CCs for one another.
- Conditions that may not coexist, such as partial/total, unilateral/bilateral, obstructed/unobstructed, and benign/malignant, should not be considered CCs for one another.
- The same condition in anatomically proximal sites should not be considered CCs for one another.
- Closely related conditions should not be considered CCs for one another.

The creation of the CC Exclusions List was a major project involving hundreds of codes. The FY 1988 revisions were intended only as a first step toward refinement of the CC list in that the criteria used for eliminating certain diagnoses from consideration as CCs were intended to identify only the most obvious diagnoses that should not be considered complications or comorbidities of another diagnosis. For that reason, and in light of comments and questions on the CC list, we have continued to review the remaining CCs to identify additional exclusions and to remove diagnoses from the master list that have been shown not to meet the definition of a CC. (See the September 30, 1988 final rule (53 FR 38485) for the revision made for the discharges occurring in FY 1989; the September 1, 1989 final rule (54 FR 36552) for the FY 1990 revision; the September 4, 1990 final rule (55 FR 36126) for the FY 1991 revision; the August 30, 1991 final rule (56 FR 43209) for the FY 1992 revision; the September 1, 1992 final rule (57 FR 39753) for the FY 1993 revision; the September 1, 1993 final rule (58 FR 46278) for the FY 1994 revisions; the September 1, 1994 final rule (59 FR 45334) for the FY 1995 revisions; the September 1, 1995 final rule (60 FR 45782) for the FY 1996 revisions; the August 30, 1996 final rule (61 FR 46171) for the FY 1997 revisions; the August 29, 1997 final rule (62 FR 45966) for the FY 1998 revisions; the July 31, 1998 final rule (63 FR 40954) for the FY 1999 revisions, and the August 1, 2000 final rule (65 FR 47064) for the FY 2001 revisions. In the July 30, 1999 final rule (64 FR 41490) we did not modify the CC Exclusions List for FY 2000 because we

did not make any changes to the ICD–9–CM codes for FY 2000.

We are proposing a limited revision of the CC Exclusions List to take into account the changes that will be made in the ICD–9–CM diagnosis coding system effective October 1, 2001. (See section II.B.11. below, for a discussion of ICD–9–CM changes.) These proposed changes are being made in accordance with the principles established when we created the CC Exclusions List in 1987.

Tables 6F and 6G in section V. of the Addendum to this proposed rule contain the proposed revisions to the CC Exclusions List that would be effective for discharges occurring on or after October 1, 2001. Each table shows the principal diagnoses with proposed changes to the excluded CCs. Each of these principal diagnoses is shown with an asterisk, and the additions or deletions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

CCs that are added to the list are in Table 6G—Additions to the CC Exclusions List. Beginning with discharges on or after October 1, 2001, the indented diagnoses will not be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

CCs that are deleted from the list are in Table 6H—Deletions from the CC Exclusions List. Beginning with discharges on or after October 1, 2001, the indented diagnoses will be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

Copies of the original CC Exclusions List applicable to FY 1988 can be obtained from the National Technical Information Service (NTIS) of the Department of Commerce. It is available in hard copy for $133.00 plus shipping and handling. A request for the FY 1988 CC Exclusions List (which should include the identification accession number (PB) 88–133970) should be made to the following address: National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; or by calling (800) 553–6847.

Users should be aware of the fact that all revisions to the CC Exclusions List (FYs 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999) and those in Tables 6F and 6G of this document must be incorporated into the list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 2001. (Note: There was no CC Exclusions List in FY 2000 because we did not make changes to the ICD–9–CM codes for FY 2000.)

Alternatively, the complete documentation of the GROUPER logic, including the current CC Exclusions List, is available from 3M/Health Information Systems (HIS), which, under contract with HCFA, is responsible for updating and maintaining the GROUPER program. The current DRG Definitions Manual, Version 18.0, is available for $225.00, which includes $15.00 for shipping and handling. Version 19.0 of this manual, which includes the final FY 2002 DRG changes, will be available in October 2001 for $225.00. These manuals may be obtained by writing 3M/HIS at the following address: 100 Barnes Road, Wallingford, CT 06492; or by calling (203) 949–0303. Please specify the revision or revisions requested.

10. Review of Procedure Codes in DRGs 468, 476, and 477

Each year, we review cases assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis), DRG 476 (Prostatic OR Procedure Unrelated to Principal Diagnosis), and DRG 477 (Nonextensive OR Procedure Unrelated to Principal Diagnosis) to determine whether it would be appropriate to change the procedures assigned among these DRGs.

DRGs 468, 476, and 477 are reserved for those cases in which none of the OR procedures performed is related to the principal diagnosis. These DRGs are intended to capture atypical cases, that is, those cases not occurring with sufficient frequency to represent a distinct, recognizable clinical group. DRG 476 is assigned to those discharges in which one or more of the following prostatic procedures are performed and are unrelated to the principal diagnosis:

60.0 Incision of prostate
60.12 Open biopsy of prostate
60.15 Biopsy of periprostatic tissue
60.18 Other diagnostic procedures on prostate and periprostatic tissue
60.21 Transurethral prostatectomy
60.29 Other transurethral prostatectomy
60.61 Local excision of lesion of prostate
60.69 Prostatectomy NEC
60.81 Incision of periprostatic tissue
60.82 Excision of periprostatic tissue
60.93 Repair of prostate
60.94 Control of (postoperative) hemorrhage of prostate
60.95 Transurethral balloon dilation of the prostatic urethra
60.99 Other operations on prostate

All remaining OR procedures are assigned to DRGs 468 and 477, with DRG 477 assigned to those discharges in which the only procedures performed are nonextensive procedures that are unrelated to the principal diagnosis. The original list of the ICD–9–CM procedure codes for the procedures we consider nonextensive procedures, if performed with an unrelated principal diagnosis, was published in Table 6C in section IV. of the Addendum to the September 30, 1988 final rule (53 FR 38591). As part of the final rules published on September 4, 1990 (55 FR 36135), August 30, 1991 (56 FR 43212), September 1, 1992 (57 FR 23625), September 1, 1993 (58 FR 46279), September 1, 1994 (59 FR 45336), September 1, 1995 (60 FR 45783), August 30, 1996 (61 FR 46173), and August 29, 1997 (62 FR 45981), we moved several other procedures from DRG 468 to 477, and some procedures from DRG 477 to 468. No procedures were moved in FY 1999, as noted in the July 31, 1998 final rule (63 FR 40962); in FY 2000, as noted in the July 30, 1999 final rule (64 FR 41496); or in FY 2001, as noted in the August 1, 2000 final rule (65 FR 47064).

a. Moving Procedure Codes From DRGs 468 or 477 to MDCs

We annually conduct a review of procedures producing assignment to DRG 468 or DRG 477 on the basis of volume, by procedure, to see if it would be appropriate to move procedure codes out of these DRGs into one of the surgical DRGs for the MDC into which the principal diagnosis falls. The data are arrayed two ways for comparison purposes. We look at a frequency count of each major operative procedure code. We also compare procedures across MDCs by volume of procedure codes within each MDC.

Using 100 percent of the FY 2000 MedPAR file containing bills submitted through May 31, 2000 for discharges in FY 2000, we determined that the quantity of cases in DRG 477 totaled 17,153. There were 106 instances where the major operative procedure appeared only once (6.4 percent of the time), resulting in assignment to DRG 477.

Using the same 100 percent sample of the FY 2000 MedPAR file, we reviewed DRG 468. There were a total of 40,429 cases, with one major operative code causing the DRG assignment 311 times (or 8 percent) and 230 instances where the major operative procedure appeared only once (or 6 percent of the time).

Our medical consultants then identified those procedures occurring in conjunction with certain principal diagnoses with sufficient frequency to justify adding them to one of the surgical DRGs for the MDC in which the

diagnosis falls. Based on this year's review, we did not identify any necessary changes in procedures under DRG 477 and, therefore, are not proposing to move any procedures from DRG 477 to one of the surgical DRGs. However, our medical consultants have identified a number of procedure codes that should be removed from DRG 468 and put into more clinically coherent DRGs. The movement of these codes are specified in the charts below:

MOVEMENT OF PROCEDURE CODES FROM DRG 468

Procedure code	Description	Included in DRG	Description
MDC 1—Diseases and Disorders of the Nervous System			
5495	Peritoneal Incision	7	Peripheral and Cranial Nerve and Other Nervous System Procedures with CC
5495	Peritoneal Incision	8	Peripheral and Cranial Nerve and Other Incision Nervous System Procedures without CC
MDC 3—Diseases and Disorders of the Ear			
3821	Blood Vessel Biopsy	63	Other Ear, Nose, Mouth and Throat OR Procedure
MDC 4—Diseases and Disorders of the Respiratory System			
3821	Blood Vessel Biopsy	76	Other Respiratory System OR Procedures with CC
3821	Blood Vessel Biopsy	77	Other Respiratory System OR Procedures without CC
3929	Vascular Shunt & Bypass NEC	76	Other Respiratory System OR Procedures with CC
3929	Vascular Shunt & Bypass NEC	77	Other Respiratory System OR Procedures without CC
3931	Suture of Artery	76	Other Respiratory System OR Procedures with CC
3931	Suture of Artery	77	Other Respiratory System OR Procedures without CC
5411	Exploratory Laparotomy	76	Other Respiratory System OR Procedures with CC
5411	Exploratory Laparotomy	77	Other Respiratory System OR Procedures without CC
7749	Bone Biopsy NEC	76	Other Respiratory System OR Procedures with CC
7749	Bone Biopsy NEC	77	Other Respiratory System OR Procedures without CC
8669	Free Skin Graft NEC	76	Other Respiratory System OR Procedures with CC
8669	Free Skin Graft NEC	77	Other Respiratory System OR Procedures without CC
MDC 5—Diseases and Disorders of the Circulatory System			
3402	Exploratory Thoracotomy	120	Other Circulatory System OR Procedures
3403	Reopen Thoracotomy Site	120	Other Circulatory System OR Procedures
3421	Transpleura Thoracoscopy	120	Other Circulatory System OR Procedures
3422	Mediastinoscoy Circulatory	120	Other Circulatory System OR Procedures
3426	Open Mediastinal Biopsy	120	Other Circulatory System OR Procedures
436	Distal Gastrectomy	120	Other Circulatory System OR Procedures
437	Partial Gastrectomy with Jejunal Anastamosis.	120	Other Circulatory System OR Procedures
4389	Partial Gastrectomy	120	Other Circulatory System OR Procedures
4399	Total Gastrectomy	120	Other Circulatory System OR Procedures
14561	Multiple Segment Small Bowel Excision.	120	Other Circulatory System OR Procedures
4562	Partial Small Bowel Resectomy NEC.	120	Other Circulatory System OR Procedures
4572	Cecectomy	120	Other Circulatory System OR Procedures
4573	Right Hemicolectomy	120	Other Circulatory System OR Procedures
4574	Transverse Colon Resectomy	120	Other Circulatory System OR Procedures
4575	Left Hemicolectomy	120	Other Circulatory System OR Procedures
4579	Partial Large Bowel Excision NEC	120	Other Circulatory System OR Procedures
458	Total Intra-Abdominal Colectomy	120	Other Circulatory System OR Procedures
4593	Small-to-Large Bowel NEC	120	Other Circulatory System OR Procedures
4603	Large Bowel Exteriorization	120	Other Circulatory System OR Procedures
4613	Permanent Colostomy	120	Other Circulatory System OR Procedures
4709	Other Appendectomy	120	Other Circulatory System OR Procedures
4862	Anterior Rectal Resction With Colostomy.	120	Other Circulatory System OR Procedures
4863	Anterior Rectal Resection NEC	120	Other Circulatory System OR Procedures
4869	Rectal Resection	120	Other Circulatory System OR Procedures
5012	Open Liver Biopsy	120	Other Circulatory System OR Procedures
540	Abdominal Wall Incision	120	Other Circulatory System OR Procedures
MDC 6—Diseases and Disorders of the Digestive System			
5122	Cholecystectomy	170	Other Digestive System OR Procedures with CC
5122	Cholecystectomy	171	Other Digestive System OR Procedures without CC
5123	Laparoscopic Cholecystectomy	170	Other Digestive System OR Procedures with CC
5132	GB-To-Intestine Anastomy	170	Other Digestive System OR Procedures with CC
5136	Choledochoenterostomy	170	Other Digestive System OR Procedures with CC

MOVEMENT OF PROCEDURE CODES FROM DRG 468

Procedure code	Description	Included in DRG	Description
5136	Choledochoenterostomy	171	Other Digestive System OR Procedures without CC
5137	Hepatic Duct-GI Anastomy	170	Other Digestive System OR Procedures with Anastomy CC
5137	Hepatic Duct-GI Anastomy	171	Other Digestive System OR Procedures without CC
5159	Bile Duct Incision NEC	170	Other Digestive System OR Procedures with CC
5159	Bile Duct Incision NEC	171	Other Digestive System OR Procedures without CC
MDC 7—Diseases and Disorders of the Hepatobiliary System and Pancreas			
540	Abdominal Wall Incision	201	Other Hepatobiliary and Pancreas Procedure
MDC 8—Diseases and Disorders of the Musculoskeletal System and Connective Tissue			
3479	Other Chest Wall Repair	233	Other Musculoskeletal System & Connective Tissue OR Procedure with CC
3479	Other Chest Wall Repair	234	Other Musculoskeletal System & Connective Tissue OR Procedure without CC
MDC 11—Diseases and Disorders of the Kidney and Urinary Tract			
540	Abdominal Wall Incision	315	Other Kidney & Urinary Tract OR Procedure
5451	Laparoscopic Periton Adhesiolysis	315	Other Kidney & Urinary Tract OR Procedure
5459	Other Periton Adhesiolysis	315	Other Kidney & Urinary Tract OR Procedure

b. Reassignment of Procedures Among DRGs 468, 476, and 477

We also annually review the list of ICD–9–CM procedures that, when in combination with their principal diagnosis code, result in assignment to DRGs 468, 476, and 477, to ascertain if any of those procedures should be moved from one of these DRGs to another of these DRGs based on average charges and length of stay. We look at the data for trends such as shifts in treatment practice or reporting practice that would make the resulting DRG assignment illogical. If our medical consultants were to find these shifts, we would propose moving cases to keep the DRGs clinically similar or to provide payment for the cases in a similar manner. Generally, we move only those procedures for which we have an adequate number of discharges to analyze the data. Based on our review this year, we are not proposing to move any procedures from DRG 468 to DRGs 476 or 477, from DRG 476 to DRGs 468 or 477, or from DRG 477 to DRGs 468 or 476.

c. Adding Diagnosis Codes to MDCs

Based on our review this year, we are not proposing to add any diagnosis codes to MDCs.

11. Changes to the ICD–9–CM Coding System

As described in section II.B.1. of this preamble, the ICD–9–CM is a coding system that is used for the reporting of diagnoses and procedures performed on a patient. In September 1985, the ICD–9–CM Coordination and Maintenance Committee was formed. This is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and HCFA, charged with maintaining and updating the ICD–9–CM system. The Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD–9–CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The NCHS has lead responsibility for the ICD–9–CM diagnosis codes included in the *Tabular List* and *Alphabetic Index for Diseases,* while HCFA has lead responsibility for the ICD–9–CM procedure codes included in the *Tabular List* and *Alphabetic Index for Procedures.*

The Committee encourages participation in the above process by health-related organizations. In this regard, the Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for representatives of recognized organizations in the coding field, such as the American Health Information Management Association (AHIMA) (formerly American Medical Record Association (AMRA)), the American Hospital Association (AHA), and various physician specialty groups as well as physicians, medical record administrators, health information management professionals, and other members of the public to contribute ideas on coding matters. After considering the opinions expressed at the public meetings and in writing, the Committee formulates recommendations, which then must be approved by the agencies.

The Committee presented proposals for coding changes for implementation in FY 2002 at public meetings held on May 11, 2000 and November 17, 2000, and finalized the coding changes after consideration of comments received at the meetings and in writing by January 8, 2001.

Copies of the Coordination and Maintenance Committee minutes of the 2000 meetings can be obtained from the HCFA home page at: http://www.hcfa.gov/medicare/icd9cm.htm. Paper copies of these minutes are no longer available and the mailing list has been discontinued. We encourage commenters to address suggestions on coding issues involving diagnosis codes to: Donna Pickett, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; NCHS; Room 1100; 6525 Belcrest Road; Hyattsville, MD 20782. Comments may be sent by E-mail to: dfp4@cdc.gov.

Questions and comments concerning the procedure codes should be addressed to: Patricia E. Brooks, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; HCFA, Center for Health Plans and Providers, Purchasing Policy Group, Division of Acute Care; C4–07–07; 7500 Security

Boulevard; Baltimore, MD 21244–1850. Comments may be sent by E-mail to: pbrooks@hcfa.gov.

The ICD–9–CM code changes that have been approved will become effective October 1, 2001. The new ICD–9–CM codes are listed, along with their proposed DRG classifications, in Tables 6A and 6B (New Diagnosis Codes and New Procedure Codes, respectively) in section V. of the Addendum to this proposed rule. As we stated above, the code numbers and their titles were presented for public comment at the ICD–9–CM Coordination and Maintenance Committee meetings. Both oral and written comments were considered before the codes were approved. Therefore, we are soliciting comments only on the proposed DRG classification of these new codes.

Further, the Committee has approved the expansion of certain ICD–9–CM codes to require an additional digit for valid code assignment. Diagnosis codes that have been replaced by expanded codes or other codes or have been deleted are in Table 6C (Invalid Diagnosis Codes). These invalid diagnosis codes will not be recognized by the GROUPER beginning with discharges occurring on or after October 1, 2001. For codes that have been replaced by new or expanded codes, the corresponding new or expanded diagnosis codes are included in Table 6A (New Diagnosis Codes). There were no procedure codes that were replaced by expanded codes or other codes, or were deleted. Revisions to diagnosis code titles are in Table 6E (Revised Diagnosis Code Titles), which also include the proposed DRG assignments for these revised codes. Revisions to procedure code titles are in Table 6F (Revised Procedure Codes Titles).

In September 2000, the Department implemented a policy of paying for inpatient hospital stays for Medicare beneficiaries participating in clinical trials (HCFA Program Memorandum AB 00–89, September 19, 2000). Hospitals were encouraged to identify the patients involved by reporting an ICD–9–CM code. This would allow the examination of data on the patients involved in clinical trials. However, there was no clear ICD–9–CM diagnosis code for patients who took part in a clinical trial. There was a code for patients receiving an examination as part of the control group for clinical trials. This control group code was V70.7 (Examination for normal comparison or control in clinical research). Hospitals were instructed to use V70.5 (Health examination of defined subpopulations), for patients participating in a clinical trial.

This coding directive has created some confusion because of the title and description of the two codes. Hospitals also have requested that all clinical patients be captured under one code. They indicated that the use of one code would be especially useful because patients frequently do not know if they are part of the control group or are receiving new therapy.

To help alleviate the confusion, the ICD–9–CM Coordination and Maintenance Committee revised code V70.7. Effective October 1, 2001, the new title of code V70.7 is ''Examination of patient in clinical trial.'' This revision will make it easier to capture data on Medicare beneficiaries who are participating in a clinical trial.

12. Other Issues

a. Pancreas Transplant

Effective July 1, 1999, Medicare covers whole organ pancreas transplantation if the transplantation is performed simultaneously with or after a kidney transplant (procedure codes 55.69 (Other kidney transplantation), or diagnosis code V42.0 (Organ or tissue replaced by transplant, Kidney), along with 52.80 (Pancreatic transplant, not otherwise specified), or 52.82 (Homotransplant of pancreas)). A discussion of the history of these coverage decisions and codes can be found in the August 1, 2000 final rule on the prospective payment system for FY 2001 (65 FR 47067).

We discussed the appropriate DRG classification for these cases in both the July 30, 1999 final rule (64 FR 41497) and the August 1, 2000 final rule (65 FR 47067). Currently, cases can be assigned to one of two major DRGs depending on principal diagnosis. If a kidney transplant and a pancreas transplant are performed simultaneously on a patient with chronic renal failure secondary to diabetes with renal manifestations (diagnosis codes 250.40 through 250.43), the cases will be assigned to DRG 302 (Kidney Transplant). If a pancreas transplant is performed following a kidney transplant (during a different hospital admission) on a patient with chronic renal failure secondary to diabetes with renal manifestations, the case is assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This is because pancreas transplant is not assigned to MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract), the MDC to which a principal diagnosis of chronic renal failure secondary to diabetes is assigned.

In the August 1, 2000 final rule, we noted that we would continue to monitor these transplant cases to determine the appropriateness of establishing a new DRG. For this proposed rule, using 100 percent of the data in the FY 2000 MedPAR file (which contains hospital bills received for FY 2000 through May 31, 2000), we analyzed the cases for which procedure codes 52.80 and 52.82 were reported. (Our data showed that 15 of the cases were coded using 52.83 (Heterotransplant of pancreas), which is not a covered procedure under any circumstances.) We identified a total of 221 cases for this time period. The United Network for Organ Sharing (UNOS) reported it had identified 270 cases through September 2000.

These 221 MedPAR cases were distributed over 6 DRGs, with the majority (158 cases or 72 percent) assigned to DRG 302, and 23 cases (10 percent) assigned to DRG 468. The remaining 40 cases were distributed between 4 other DRGs, with the majority (25 cases) being assigned to DRG 292 (Other Endocrine, Nutritional and Metabolic OR Procedures with CC). Four cases were assigned to DRG 483 (Tracheostomy with Principal Diagnosis except Face, Mouth and Neck Diagnoses) in the Pre-MDC grouping, which took precedence over any other DRG assignment.

We arrayed the data based on the presence or absence of kidney transplant; that is, pancreas transplant codes with or without 55.69. The majority of cases (166 or 75 percent) had the combined kidney-pancreas transplant in one operative episode, with 55 (25 percent) of the cases having pancreas transplant subsequent to the kidney transplant. Differences in hospital charges were significantly higher for a pancreas transplant plus a kidney transplant ($138,809) than a pancreas transplant alone ($85,972), and both were higher than average standardized charges in DRG 302 ($64,760) or DRG 468 ($39,707), although it must be noted that these figures do reflect the resource intensive patients assigned to DRG 483. Those patients in DRG 483 had average standardized charges of $377,934.

Because these categories of patients do not fit into existing DRGs from either a clinical or resource perspective, we are proposing to create two new DRGs that would reflect these patients' unique clinical profiles: DRG 512 (Simultaneous Pancreas/Kidney Transplant) and DRG 513 (Pancreas Transplants). Cases grouped to either proposed DRGs 512 or 513 must have a principal or secondary diagnosis code and procedure code or combination of

procedure codes as indicated in the chart below:

COMPOSITION OF PROPOSED DRGS 512 AND 513

Diagnosis and procedure codes	Included in proposed DRG 512	Included in proposed DRG 513
Principal or Secondary ICD–9–CM Diabetes Mellitus Code:		
250.00 Diabetes mellitus without mention of complication, Type II or unspecified type, not stated as uncontrolled	X	X
250.01 Diabetes mellitus without mention of complication, Type I, not stated as uncontrolled	X	X
250.02 Diabetes mellitus without mention of complication, Type I,	X	X
250.03 Diabetes mellitus without mention of complication, Type I, uncontrolled	X	X
250.10 Diabetes with ketoacidosis, Type II or Unspecified type, not stated as uncontrolled	X	X
250.11 Diabetes with ketoacidosis, Type I, not stated as uncontrolled	X	X
250.12 Diabetes with ketoacidosis, Type II or unspecified type, uncontrolled	X	X
250.13 Diabetes with ketoacidosis, Type I, controlled	X	X
250.20 Diabetes with hyperosmolarity, Type II or unspecified type, not stated as uncontrolled	X	X
250.21 Diabetes with hyperosmolarity, Type I, not stated as uncontrolled	X	X
250.22 Diabetes with hyperosmolarity, Type II or unspecified type, uncontrolled	X	X
250.23 Diabetes with hyperosmolarity, Type I, uncontrolled	X	X
250.30 Diabetes with other coma, Type II or unspecified type, not stated as uncontrolled.		
250.31 Diabetes with other coma, Type I, not stated as uncontrolled	X	X
250.32 Diabetes with other coma, Type II or unspecified type, uncontrolled	X	X
250.33 Diabetes with other coma, Type I, uncontrolled	X	X
250.40 Diabetes with renal manifestations, Type II or unspecified type, not stated as uncontrolled	X	X
250.41 Diabetes with renal manifestations, Type I, not stated as uncontrolled	X	X
250.42 Diabetes with renal manifestations, Type II unspecified type, uncontrolled	X	X
250.43 Diabetes with renal manifestations, Type I, uncontrolled	X	X
250.50 Diabetes with ophthalmic manifestations, Type II or unspecified type, not stated as uncontrolled	X	X
250.51 Diabetes with ophthalmic manifestations, Type I, not stated as uncontrolled	X	X
250.52 Diabetes with ophthalmic manifestations, Type II or unspecified type, uncontrolled	X	X
250.53 Diabetes with ophthalmic manifestations, Type I, uncontrolled	X	X
250.60 Diabetes with neurological manifestations, Type II or unspecified type, not stated as uncontrolled	X	X
250.61 Diabetes with neurological manifestations, Type I, not stated as uncontrolled	X	X
250.62 Diabetes with neurological manifestations, Type II or unspecified type, uncontrolled	X	X
250.63 Diabetes with neurological manifestations, Type I uncontrolled	X	X
250.70 Diabetes with peripheral circulatory disorders, Type II or unspecified type, not stated as uncontrolled	X	X
250.71 Diabetes with peripheral circulatory disorders, Type I, not stated as uncontrolled	X	X
250.72 Diabetes with peripheral circulatory disorders, Type II or unspecified type, uncontrolled	X	X
250.73 Diabetes with peripheral circulatory disorders, Type I, uncontrolled	X	X
250.80 Diabetes with other specified manifestations, Type II or unspecified type, not stated as uncontrolled	X	X
250.81 Diabetes with other specified manifestations, Type I, not stated as uncontrolled	X	X
250.82 Diabetes with other specified manifestations, Type II or unspecified type, uncontrolled	X	X
250.83 Diabetes with other specified manifestations, Type I, uncontrolled	X	X
250.90 Diabetes with unspecified complication, Type II or unspecified type, not stated as uncontrolled	X	X
250.91 Diabetes with unspecified complication, Type I, not stated as uncontrolled	X	X
250.92 Diabetes with unspecified complication, Type II or unspecified type, uncontrolled	X	X
250.93 Diabetes with unspecified complication, Type I, uncontrolled	X	X
Principal or Secondary Diagnosis Code:		
585 Chronic renal failure	X	X
403.01 Hypertensive renal disease, malignant, with renal failure	X	X
403.11 Hypertensive renal disease, benign, with renal failure	X	X
403.91 Hypertensive renal disease, unspecified, with renal failure	X	X
404.02 Hypertensive heart & renal disease, malignant, with renal failure	X	X
404.03 Hypertensive heart & renal disease, malignant, with congestive heart failure and renal disease	X	X
404.12 Hypertensive heart & renal disease, benign, with renal failure	X	X
404.13 Hypertensive heart & renal disease, benign, with congestive heart failure and renal disease	X	X
404.92 Hypertensive heart & renal disease, unspecified, with renal failure	X	X
404.93 Hypertensive heart & renal disease, unspecified, with congestive heart failure and renal failure	X	X
V42.0 Organ or tissue replaced by transplant, kidney	X	X
V43.89 Organ or tissue replaced by other means, other (Kidney)	X	X
Procedure Code:		
52.80 Pancreatic transplant, not otherwise specified		X
52.82 Homotransplant of pancreas		X
Combination Procedure Codes:		
52.80 Pancreatic transplant, not otherwise specified, plus		
55.69 Other kidney transplantation	X	
or		
52.82 Homotransplant of pancreas plus		
55.69 Other kidney transplantation	X	

The logic for the proposed DRG 512 accepts the pair of diagnosis codes in any position (principal/secondary or secondary/secondary). The pair of procedure codes must be present along with the two diagnosis codes. This DRG would be placed in the Pre-MDC GROUPER logic immediately following DRG 480 (Liver Transplant).

The logic for DRG 513 accepts the pair of diagnosis codes in any position (principal/secondary or secondary/secondary). Only one procedure code must be used along with the two diagnosis codes. This DRG would be placed in the Pre-MDC GROUPER logic immediately following proposed new DRG 512 (Simultaneous Pancreas/Kidney Transplant).

b. Intestinal Transplantation

Effective April 1, 2001, Medicare covers intestinal transplantation for the purpose of restoring intestinal function in patients with irreversible intestinal failure (Medicare Program Memorandum Transmittal No. AB–00–130, December 22, 2000). This procedure is covered only when performed for patients who have failed total parenteral nutrition (TPN) and only when performed in centers that meet approval criteria.

Intestinal failure is defined as the loss of absorptive capacity of the small bowel secondary to severe primary gastrointestinal disease or surgically induced short bowel syndrome. Intestinal failure prevents oral nutrition and may be associated with both mortality and profound morbidity.

If an intestinal transplantation alone is performed on a patient with an intestinal principal diagnosis, the case would be assigned to either DRG 148 (Major Small & Large Bowel Procedures With CC) or DRG 149 (Major Small & Large Bowel Procedures Without CC). If an intestinal transplantation and a liver transplantation are performed simultaneously, the case would be assigned to DRG 480 (Liver Transplant).

If an intestinal transplantation and a pancreas transplantation are performed simultaneously, currently the case would be assigned to either DRG 148 or DRG 149. As we have proposed in section II.B.12.A. of this proposed rule, effective October 1, 2001, the case would be assigned to DRG 513 (Pancreas Transplant). We are proposing to make a conforming change to the regulations at § 412.2(e)(4) and § 486.302 to include intestines (and multivisceral organs) in the list of organs for which Medicare pays for the acquisition costs on a reasonable cost basis.

Effective October 1, 2000, procedure code 46.97 (Transplant of intestine) was created. We have examined our Medicare claims data to determine whether it is appropriate to propose a new intestinal transplant DRG. We examined 100 percent of the data in the FY 2000 MedPAR file containing bills submitted through May 31, 2000. Therefore, we focused our examination on the previous code assignment for intestinal transplant, code 46.99 (Other operations on intestines), and facilities that are currently performing intestinal transplantation. We were able to identify only one case, with an average charge of approximately $10,738 as compared to the average standardized charges for DRGs 148 and 149, which are approximately $37,961, and $16,965, respectively. We will continue to monitor these cases to determine whether it may be appropriate in the future to establish a new DRG.

C. Recalibration of DRG Weights

We are proposing to use the same basic methodology for the FY 2002 recalibration as we did for FY 2001 (August 1, 2000 final rule (65 FR 47069)). That is, we would recalibrate the weights based on charge data for Medicare discharges. However, we propose to use the most current charge information available, the FY 2000 MedPAR file. (For the FY 2001 recalibration, we used the FY 1999 MedPAR file.) The MedPAR file is based on fully coded diagnostic and procedure data for all Medicare inpatient hospital bills.

The proposed recalibrate DRG relative weights are constructed from FY 2000 MedPAR data (discharges occurring between October 1, 1999 and September 30, 2000), based on bills received by HCFA through December 31, 2000, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The FY 2000 MedPAR file includes data for approximately 11,008,302 Medicare discharges.

The methodology used to calculate the proposed DRG relative weights from the FY 2000 MedPAR file is as follows:

- To the extent possible, all the claims were regrouped using the proposed DRG classification revisions discussed in section II.B. of this preamble. As noted in section II.B.8., due to the unavailability of the revised GROUPER software, we simulated most major classification changes to approximate the placement of cases under the proposed reclassification. However, there are some changes that cannot be modeled.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education and disproportionate share payments, and, for hospitals in Alaska and Hawaii, the applicable cost-of-living adjustment.
- The average standardized charge per DRG was calculated by summing the standardized charges for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.
- We then eliminated statistical outliers, using the same criteria used in computing the current weights. That is, all cases that are outside of 3.0 standard deviations from the mean of the log distribution of both the charges per case and the charges per day for each DRG are eliminated.
- The average charge for each DRG was then recomputed (excluding the statistical outliers) and divided by the national average standardized charge per case to determine the relative weight. A transfer case is counted as a fraction of a case based on the ratio of its transfer payment under the per diem payment methodology to the full DRG payment for nontransfer cases. That is, transfer cases paid under the transfer methodology equal to half of what the case would receive as a nontransfer would be counted as 0.5 of a total case.
- We established the relative weight for heart and heart-lung, liver, and lung transplants (DRGs 103, 480, and 495) in a manner consistent with the methodology for all other DRGs except that the transplant cases that were used to establish the weights were limited to those Medicare-approved heart, heart-lung, liver, and lung transplant centers that have cases in the FY 1999 MedPAR file. (Medicare coverage for heart, heart-lung, liver, and lung transplants is limited to those facilities that have received approval from HCFA as transplant centers.)
- Acquisition costs for kidney, heart, heart-lung, liver, lung, and pancreas transplants continue to be paid on a reasonable cost basis. Unlike other excluded costs, the acquisition costs are concentrated in specific DRGs (DRG 302 (Kidney Transplant); DRG 103 (Heart Transplant); DRG 480 (Liver Transplant); DRG 495 (Lung Transplant); and proposed new DRGs 512 (Simultaneous Pancreas/Kidney Transplant) and 513 (Pancreas Transplant). Because these costs are paid separately from the prospective payment rate, it is necessary to make an adjustment to prevent the relative weights for these DRGs from including the acquisition costs. Therefore, we subtracted the acquisition charges from the total charges on each transplant bill that showed acquisition charges before computing the average charge for the DRG and before eliminating statistical outliers.

When we recalibrated the DRG weights for previous years, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. We propose to use that same case threshold in recalibrating the DRG weights for FY 2002. Using the FY 2000 MedPAR data set, there are 39 DRGs that contain fewer than 10 cases. We computed the weights for these 39 low-volume DRGs by adjusting the FY 2001 weights of these DRGs by the percentage change in the average weight of the cases in the other DRGs.

The new weights are normalized by an adjustment factor (1.44813) so that the average case weight after recalibration is equal to the average case weight before recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system, and accounts for the gradual shift in cases toward higher-weighted DRGs over time.

Section 1886(d)(4)(C)(iii) of the Act requires that, beginning with FY 1991, reclassification and recalibration changes be made in a manner that assures that the aggregate payments are neither greater than nor less than the aggregate payments that would have been made without the changes. Although normalization is intended to achieve this effect, equating the average case weight after recalibration to the average case weight before recalibration does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals because payment to hospitals is affected by factors other than average case weight. Therefore, as we have done in past years and as discussed in section II.A.4.b. of the Addendum to this proposed rule, we are proposing to make a budget neutrality adjustment to ensure that the requirement of section 1886(d)(4)(C)(iii) of the Act is met.

D. Incorporating New Medical Services and Technologies in the Inpatient Hospital Prospective Payment System

Much attention recently has focused on how well Medicare incorporates the cost of new medical services and technologies into its payment systems. Of particular concern is the adequacy of Medicare's payment systems in facilitating access to new technologies for Medicare beneficiaries. Section 533 of Public Law 106–554 directs the Secretary to develop a mechanism for ensuring adequate payment under the hospital inpatient prospective payment system for new medical services and technologies, and to report to Congress on ways to more expeditiously incorporate new services and technologies into that system. This discussion addresses the requirements of section 533 of Public Law 106–554.

1. Overview

Medicare payment for an inpatient hospital discharge under the inpatient prospective payment system is determined by multiplying the relative weight associated with a particular DRG by the national average standardized amount (adjusted for other hospital characteristics such as a geographic wage index, teaching status, and treating a high percentage of low-income patients). Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). The DRG relative weights are recalculated each year to reflect the average resources expended across all hospitals to treat patients within a particular DRG.

In general, the inpatient prospective payment system makes payments for new medical services and technologies as soon as these items are payable. New items or services generally fit within existing DRGs, and hospitals using these items and services will be paid at established payment rates for the applicable DRGs. Payment rates may subsequently be adjusted through the annual process of evaluating the assignment of cases within DRGs and recalculating the relative weights associated with each DRG based on average charges. These annual changes are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

Since the prospective payment system was first implemented in October 1983, the pace of innovation in medical technology has been rapid. Generally speaking, the system appears to have accommodated these innovations without occasioning significant concerns regarding access to new technologies. In its March 2001 report to the Congress, the Medicare Payment Advisory Commission stated ''the design of the inpatient PPS (prospective payment system) makes it easier to ensure an appropriate distribution of payments while accommodating technological advances'' (page 44).

2. Current Practice—Coding and Payment

A number of issues arise relating to present methods of incorporation of new technologies in the inpatient hospital prospective payment system. One issue is the appropriate ICD–9–CM code to be assigned to the new technology. This issue is discussed in detail below. Assuming the new technology is or can be covered by Medicare, a determination must be made concerning to which DRG should the new technology be assigned. The DRG (and the value of the relative weight associated with that DRG) to which the new technology is assigned determines the payment rate for the new technology. Under the DRG system, the condition of the patient is the primary consideration in the decision to assign a new technology to a DRG. Therefore, a new technology generally will be assigned to the same DRG as the DRG's predecessor technologies and treatment modalities. In this way, hospitals can receive payment for new technology under the inpatient hospital prospective payment system quickly. As use of the new technology diffuses among hospitals, HCFA will gradually and largely automatically recalibrate DRG payment rates based on hospital claims data to reflect increasing or decreasing costs of cases assigned to the DRG. Generally, it takes 2 years for claims data to be reflected in recalibrated DRG weights. Considering the actual costs as reflected in the claims data, HCFA may also reassign new technologies to different DRGs. However, because a new technology is often more costly initially than the predecessor technologies, the adequacy of the initial payment rate occasionally becomes an issue.

At present, if payment is to be made other than by routine assignment of the new technology to an existing DRG, it is necessary to establish a new ICD–9–CM code. The lag between application for a new code and its being made effective for payment is at least a year. Because we use actual charge data from hospitals, additional costs or savings from the new technology are not reflected in the DRG weight for 2 years after a new code is effective. For example, the costs or savings attributable to any new technologies that were assigned new ICD–9–CM codes effective October 1, 1999, will be reflected in the DRG relative weights effective for discharges on or after October 1, 2001.

The lag before new technology affected payment has been viewed by some observers as a useful check on payment changes, helping to ensure that

these changes reflect the benefit of a new technology. Hospitals would adopt and utilize the new technology, it was reasoned, with a speed and to a degree commensurate with its medical advantages. Any differences in the resource requirements between the new and existing technologies would then be reflected over time in claims data and in changes in the DRG weights. To the extent particular new technologies may have been initially given relatively low payment, the design of the system provided incentives to compensate by achieving efficiencies elsewhere. Conversely, if a particular new technology reduced costs compared to existing technologies, hospitals would reap the payment benefits until such time as the DRG weights began to reflect the lower costs.

3. Current Practice—Data

Recently, HCFA provided an explicit avenue to permit more rapid payment adjustment through use of additional data. The Conference Report that accompanied the Balanced Budget Act of 1997 (Public Law 105–33) stated that ''in order to ensure that Medicare beneficiaries have access to innovative new drug therapies, the conferees believe that HCFA should consider, to the extent feasible, reliable, validated data other than Medicare Provider Analysis and Review (MedPAR) data in annually recalibrating and reclassifying the DRGs'' (H.R. Conf. Rep. No. 105–217, 105th Cong., 1st Sess., at 734 (1997)). The MedPAR contains records for all Medicare hospital discharges and is the source data used for DRG recalibration. Although we had never precluded the use of non-MedPAR data, we established an explicit process for the submission of such data in a manner consistent with the annual recalibration of the DRG weights. We stated in the July 30, 1999 **Federal Register** that, in the case of external data, a significant sample of the data should be submitted by August 1, approximately 8 months prior to the publication of the proposed rule. This would allow us to verify and test the data and make a preliminary assessment as to the feasibility of the data's use (64 FR 41499). Subsequently, a complete database must be submitted no later than December 1, approximately 4 months prior to the publication of the proposed rule. On the issue of the use of sample data, we stated in the **Federal Register** that we were not establishing specific criteria regarding sample sizes or data collection methodologies prior to gaining experience that would enable us to realistically reflect the availability of external data based on actual experience. We also encouraged anyone interested in submitting such data in the future to contact us to discuss the specific data they wish to submit and whether the data may be adequate.

4. New Legislation

Section 533 of Public Law 106–554 addresses the issue of how new technologies are introduced into the DRGs, and how DRG payment rates must be adapted to accommodate them. Specifically, the provision requires that the Secretary:

- Not later than April 1, 2001, submit a report to Congress on methods of expeditiously incorporating new medical services and technologies into the clinical coding system.
- Not later than October 1, 2001, implement the preferred methods described in the report.
- Effective October 1, 2001, establish a mechanism to recognize the costs of new medical services and technologies after notice and opportunity for public comment.
- Establish criteria to identify new medical services or technologies after notice and an opportunity for public comment.

5. DRG Assignment Issues

As background for discussion of how the DRGs should be changed to better accommodate new technology, this section will discuss the rationale for basing the initial DRG assignment on patient condition. The underlying assumption of the prospective payment system is that because hospitals are responsible for the delivery of care they can respond to the incentives to control costs inherent in the system. The success of any payment system that is predicated on providing incentives for cost control is almost totally dependent on the effectiveness with which the incentives are communicated. The DRGs were designed to be a management tool that is used also as the basis for prospective payments. The key distinction between a management tool and payment method is the ability of the hospital to use the information to take action in response to the incentives in the system. Thus, a management tool communicates information in a form and at a level of detail that can lead to specific actions. The effectiveness of any incentive-based payment system is enhanced if the payment method is simultaneously a management tool.

Because the DRGs were developed to group clinically similar patients, an extremely important means of communication between the clinical and financial aspects of care was created. DRGs provided administrators and physicians with a meaningful basis for evaluating both the process of providing care and the associated financial impacts. Development of care pathways by DRG and profit-and-loss reports by DRG product lines became commonplace. With the adoption of these new management methods, length of stay and the use of ancillary services dropped dramatically.

The DRGs not only provided a communications tool for hospital management, but they also provided an effective means for hospitals and Medicare to communicate. Instead of accountants and lawyers arguing the fine points of cost accounting, the focus of payment deliberations became the determination of a fair payment rate for patients with specific clinical problems. The vast majority of modifications to the DRGs since the inception of the Medicare inpatient hospital prospective payment system have resulted from recommendations from hospitals. The recommendations have almost always been the result of clinicians identifying specific types of patients with unique needs. A recent example of such a clinical dialogue relates to the DRGs for burns. The FY 1999 update to the DRGs included a major restructuring of the burn DRGs. This restructuring was the direct result of detailed and specific clinical recommendations provided to HCFA by burn specialists.

Central to the success of the Medicare inpatient hospital prospective payment system is that DRGs have remained a clinical description of why the patient required hospitalization. We believe it would be undesirable to transform DRGs into detailed descriptions of the technology and processes used by the hospital to treat the patient. If such a transformation were to happen, the DRGs would become largely a repackaging of fee-for-service without the management and communication benefits. A fundamental assumption underlying DRGs is that the hospital has the responsibility for deciding what technology and process to employ in treating a particular type of patient. As hospitals in the aggregate make treatment decisions, these decisions are reflected in the DRG payment weights. The separation of the clinical and payment weight methodologies allows a stable clinical methodology to be maintained while the payment weights evolve in response to changing practice patterns. The packaging of all services associated with the care of a particular type of patient into a single payment amount provides the incentive for efficiency inherent in a DRG-based prospective payment system. Substantial disaggregation of the DRGs

into smaller units of payment, or a substantial number of cases receiving extra payments, would undermine the incentives and communication value in the DRG system.

6. Coding Issues

To permit us to identify use of a new technology on hospital claims and hence to make different payments than would otherwise be applicable, we would require a code that can be used to specify when that technology is used.

a. Process for Establishing New Codes

The ICD–9–CM Coordination and Maintenance Committee is responsible for discussing potential changes to ICD–9–CM. This is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and HCFA. The NCHS has lead responsibility for the ICD–9–CM diagnosis codes, while HCFA has lead responsibility for the ICD–9–CM procedure codes. The committee holds meetings twice a year, usually in May and November. Agendas for the discussions about procedure codes are published on HCFA's Internet website a month before the meeting. A **Federal Register** notice is also published listing topics to be discussed. The meetings are open to the public and are held usually in Baltimore, Maryland. Shortly afterwards, an extensive summary of the meeting is published on HCFA's website and the public is given an additional opportunity to comment. Final comments are due by early January. A complete, current timeline is included in the Summary Report of the Committee at: www.hcfa.gov/medicare/icd9cm.htm.

For a topic to be discussed at one of the two yearly meetings of the committee, the committee must receive a request 2 months prior to the meeting. This timeframe allows HCFA to publish the agendas in the **Federal Register** notices and allows individuals and organizations to review the agenda and to determine if they wish to attend the public meetings. The timeframe is also necessary to allow the committee to research the topic and prepare a draft solution in time for the meeting. During the meetings, the committee provides a brief description of the topic (such as a new technology that may not be adequately identified by the current code) and then describes the technology or procedure through a formal presentation. Frequently, medical experts who perform the procedure make a presentation to describe the procedure and how it might be different from other procedures in the current code. Proposals are made to either continue capturing the procedure in the existing code, revise existing codes, or create a new code. The public then discusses the merits of the proposals and offers any alternate suggestions.

The ICD–9–CM is updated once a year, effective October 1. This date coincides with the annual updates to the DRGs within the inpatient hospital prospective payment system. Each spring HCFA publishes a proposed rule that includes proposed changes to the inpatient hospital prospective payment system. This notice also includes final decisions on changes to ICD–9–CM codes. By August 1, HCFA publishes the new codes in the Addendum to the final rule, which is a technical presentation of actual changes to be made in both the index and tabular sections of the ICD–9–CM coding books. The Addendum is available on HCFA's website and is also sent to organizations such as the American Hospital Association (AHA) and the American Health Information Management Association (AHIMA) to distribute to their members. By October 1 of each year, the Department of Health and Human Services also produces a CD–ROM version of the ICD–9–CM, which may be purchased at the Government Printing Office. Since the ICD–9–CM is not a copyrighted system, many publishers and organizations distribute and sell books or other publications that include the changes to ICD–9–CM.

Although the committee's process for discussing proposed changes to the ICD–9–CM fully involves and informs the public, the deliberative nature of the process does require some time. Topics discussed at the May and November 2000 meetings of the Committee are for changes to ICD–9–CM in October 2001. Therefore, depending on whether a request is considered at the May or November meeting, resulting changes may not be effective for approximately a year to a year-and-a-half later.

b. Options To Expedite the Implementation of Coding Changes

Several constraints upon the system would complicate implementing extensive changes. One significant complication is the interaction between the DRG system and the ICD–9–CM diagnosis and procedure codes (in the case of new services and technologies, the discussion focuses on procedure rather than diagnosis codes). When a new procedure code is created, a decision must be made as to whether the new code affects DRG assignment (for example, resulting in a case being assigned to a surgical rather than a medical DRG). Currently, new technology is generally assigned to the same DRG as its predecessor codes. Even if new codes do not affect DRG assignment, the GROUPER software (used to assign cases to DRGs) must be reprogrammed to recognize and classify all the new codes. This is necessary to allow Medicare's claims processing systems to process the claim.

In addition to the changes to the GROUPER software, implementing changes to ICD–9–CM codes is a detailed and far-reaching process involving modifications to code books and software coding systems, as well as changes to hospitals' claims processing systems. As described above, the current process is organized around the annual publication of coding changes in the **Federal Register** as part of the updates and changes to the inpatient hospital prospective payment system. The changes are made available during the summer, and communicated via multiple channels to hospitals. This process allows for the necessary processing changes to be thoroughly tested prior to implementation, both by HCFA and by the hospitals. This testing procedure is essential given the volume (generally 11 million claims annually) and dollar impact (approximately $75 billion during FY 2001) of Medicare inpatient discharges.

Another important issue when considering expediting the process of making coding changes is that the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected (section 1886(d)(4)(C)(iii) of the Act). If ICD–9–CM changes were made at multiple times during the year, the budget neutrality requirement would mean the standardized amounts, and potentially the cost outlier thresholds, would change as well. These changes would compromise the prospective nature of the payment system, whereby hospitals are able to project their revenues for the year and plan accordingly. Because we do not believe the requirement in section 533 of Public Law 106–554 to explore ways to expedite coding changes was intended to disrupt the prospective nature of the payment system, we did not consider options that would require revising the DRG weights and the standardized amounts more than once a year.

With these considerations in mind, we explored the potential for shortening the current process.

First, we are proposing to move the November meeting of the Coordination and Maintenance Committee to December without significant disruption. To move it further would

disrupt the process for production of the annual inpatient prospective payment system regulation. This step would shorten the code assignment process by a month and permit coding changes resulting in payment changes to be implemented in a year.

Second, we are proposing to expedite the process by issuing new coding decisions resulting from the spring meeting of the Committee (currently in May) that would be effective the following October 1. It may be necessary to move the May meeting to April to accommodate this procedure. Because the timing of this process would not allow the coding changes to be incorporated into the proposed rule published in the spring, cases with the new codes would have to be assigned to the same DRG to which they would have been assigned without the new code and no other payment adjustments would be possible. These coding changes would thus not affect the DRG weights or the budget neutrality calculations. However, more rapid introduction of new codes would permit reflection of the codes in claims data more quickly, and thus would permit eventual adjustment of payment rates sooner than otherwise possible. This capability could be of particular use where otherwise available data were not sufficient to support an immediate payment change, because hospital claims data permitting identification of use of the new technology would be available more quickly.

This change would reduce the time between discussion of a proposed code and its implementation from a minimum of 11 months to 6 months. It would allow for the collection of MedPAR data a full year earlier than under the current process, providing the possibility that DRG revisions based on new codes could be expedited by up to 1 year.

There would be significant challenges to making this proposed process work. Because the changes would not be published in the proposed rule, the public would be given less opportunity to consider the merits of the proposals, and it would have to either attend the spring meeting of the Committee or respond to the summary report within a few weeks. The decisions from the spring meeting must be finalized by the middle of June in order for us to include the changes in the Addendum of the final rule and in order to make changes in the GROUPER software to be effective October 1; it may be necessary to schedule the spring meeting earlier to meet this deadline. The opportunity to solicit additional input from industry groups and experts would be curtailed because of the short time lines. There would be an increased risk of errors related to revisions in the procedure code index (a manual process performed by HCFA), as there would be less time available to review and revise the procedure index to ensure that all changes are accurately reflected.

For example, we are creating a new procedure code to capture percutaneous gastrojejunostomy (code 44.32). All coding instructions (indexing, inclusion terms, and exclusion terms) must be verified so that the procedure is appropriately indexed. If one of the many index entries for gastrojejunostomy is not correctly updated, percutaneous gastrojejunostomy would be assigned to another gastroenterostomy (code 44.39), which is an operating room procedure. This can have a significant impact on national health care data. Coders at different hospitals may follow different entries and arrive at different codes. To limit the potential for confusion in the hospital and coding communities resulting from two separate schedules for implementing code changes, we would limit these changes to those that meet our definition of new technology eligible for special treatment as proposed below. It would not be necessary, however, to demonstrate that the cases involving the new technology would be inadequately paid, since there would be no payment impacts of these changes.

The changes would be included in the Addendum of the proposed rule for the inpatient hospital prospective payment system, and placed on the website for use by the industry in updating books and software systems. They also would be published in the final rule, and included in the CD–ROM version of ICD–9–CM that is distributed by the Government Printing Office. We are requesting public comments on this proposal.

c. Limitations of ICD–9–CM

While the updating process currently in use may not lend itself to expeditiously incorporating new medical services and technologies into the ICD–9–CM coding system, another important factor is the dated and limited structure of the ICD–9–CM system. The ICD–9–CM system was developed in the 1970s and implemented in 1979. Dramatic advances have occurred in medicine since that time. Although the ICD–9–CM Coordination and Maintenance Committee has attempted to make coding modifications to capture new technology, it has sometimes been difficult to achieve a reasonable result.

The ICD–9–CM procedure codes are made up of four digits: two numerical characters followed by a decimal, and then two additional numerical characters. The first two digits indicate a category, such as 36—Operations on the vessels of the heart. The third digit provides additional breakdown, such as 36.0—Removal of coronary artery obstruction and insertion of stents. When the fourth digit is added, the code is fully described. There are only 10 codes available within each category (fourth digits 0–9). Once a category is full, we must either combine types of similar procedures under one code, or find a place in another section of the codebook for a new code. The benefit of such a system is that we can collapse the codes into categories when analyzing claims data to capture a wide range of similar procedures. However, if similar codes are placed in separate sections of the code book, coders may not easily find them. Errors may occur when trying to identify particular types of cases when codes are not carefully placed within a system such as the current ICD–9–CM.

ICD–9–CM is 22 years old and the premises on which the coding system was established are dated. A number of approaches and techniques used for procedures such as lasers and the use of scopes were not anticipated when the structure of ICD–9–CM was developed. Consequently, the basic categories were established on technology that is now outdated. Making needed coding changes each year has been quite difficult and involves making compromises that effect the precision of the coding.

d. Short-Term Solutions Within the ICD–9–CM Structure

To consider how we might better respond to requests for new codes in the short term, we examined ICD–9–CM to attempt to identify an open series of codes that could be used for new procedures and technologies. There are currently 16 chapters of procedure codes. However, codes 17.00 through 17.99 are not in use. These codes are found between Chapter 3, ''Operations on the Eye,'' and Chapter 4, ''Operations on the Ear.'' This series of 100 codes could be used to provide codes for new procedures and technology. To fully utilize this new series of codes, we would assign new procedures to the next available code.

A limitation of this approach would be that this new chapter would capture a diverse group of procedures potentially affecting all body systems. Assigning procedure codes to this new chapter would undoubtedly create

considerable confusion for coders. Currently, procedures are grouped by body system, and similar procedures are placed in categories. This arrangement assists the coder in choosing the most appropriate code because he or she can quickly review closely related codes that are together. Using Chapter 17 for new technology codes, on the other hand, would mean that closely related codes would be widely separated.

Use of Chapter 17 would also require a major revision of coding rules since coders are taught to identify codes within a group of similar procedures. They are not accustomed to looking for a list of unrelated procedures in a separate section of the coding book.

To supplement the Chapter 17 codes, the Coordination and Maintenance Committee may be able to assign vacant codes in other chapters. However, large numbers of sequences are already fully or nearly fully occupied, and this strategy would only provide limited availability of new codes.

e. Alternative Short-Term Approaches

Some observers have expressed concern that the additional codes available within the ICD–9–CM code set may not be adequate to accommodate both routine changes in coding and the new technologies under consideration here, particularly if a long-term change, such as adoption of ICD–10–PCS, is significantly delayed. We have examined several alternative short-term options in the event the additional available codes are used before a long-term solution is reached. In evaluating these alternatives, one must consider the changes each entails to hospitals' and HCFA's coding and claims processing systems, and the time necessary to implement such changes (balanced against the timeframe for adopting a long-term coding solution).

Expanding ICD–9–CM procedure codes by making them alphanumeric or adding a fifth digit would make available a substantial number of new codes for new technology but would require substantial system changes and create standards issues. This approach was extensively discussed in meetings of the ICD–9–CM Coordination and Maintenance Committee prior to the development of ICD–10–PCS. Input from the public indicated that such a significant modification to a limited and dated system would only make the system worse. The time it would take to make this system work well would be longer than that required to build a new system and the resources needed for system changes would be significant. Such a modification of the ICD–9–CM standard code set would require the formal standards setting process prescribed by the regulations implementing the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191). We solicit comments from the public about the desirability of pursuing expansion and modification of the ICD–9–CM standards for this purpose.

Using the V-code section of ICD–9–CM diagnosis codes to report new technology would not require any systems changes or create any standards issues and would create a moderate number of codes for new technology. We have discussed this recommendation with NCHS. NCHS opposed this option as an inappropriate use of diagnosis codes. While ''V'' codes are used for the classification of factors influencing health status and contact with health services, they are not a substitute for procedure coding. By adding procedure coding concepts to the diagnosis coding system, confusion could easily lead to increased errors. Furthermore, the V-code section has only a limited number of available spots.

We also considered using HCFA Common Procedure Coding System (HCPCS) codes to report use of new technology for inpatient cases. However, using HCPCS would require a moderate amount of systems change and may require the formal standards setting process prescribed by Public Law 104–191, since the HCPCS code set is not the standard for inpatient services. However, it would make a substantial number of codes available for new technology. Alphanumeric HCPCS codes are currently used in outpatient departments and physician offices for reporting services, and they are used on a limited basis by hospitals in reporting specific inpatient services. For instance, alphanumeric HCPCS codes are used for reporting the use of hemophilia clotting factors used during an inpatient stay.

Use of HCPCS codes would require that a new service or technology either be assigned a code through otherwise applicable processes for HCPCS coding or that HCFA assign a specific, temporary code for use in connection with new technology payments for inpatient hospital services. Specifically assigned codes could be assigned relatively quickly. However, use of such codes would run the risk of confusion if other codes were assigned to the same service or items when used in other settings. More generally, HCPCS coding would duplicate information found in the ICD–9–CM procedure codes. Careful attention to integration of coding across the two systems would be necessary, and dissemination of information about correct coding to hospital coders would present challenges. Even with excellent integration and dissemination, the risk of confusion by hospital coders would be high.

The use of HCPCS codes would also raise questions on how the accuracy of claims data will be assessed. HCFA contracts with Peer Review Organizations (PROs) to validate the accuracy of coded data. Consideration would need to be given to how the accuracy of these data could be verified. If two separate coding systems with overlapping information are used, considerable variations in reporting practices might arise.

Similar to the option of using alphanumeric ICD–9–CM procedure codes, changes in systems and in hospital coding procedures that would be associated with this approach would take time and resources to implement for hospitals, HCFA, and potentially other payers such as Medicare secondary insurers.

In recognition of these considerations, we do not propose to proceed with use of HCPCS codes for this purpose at the present. We believe this possibility should be revisited later if the ICD–9–CM codes in fact prove inadequate and if a longer term solution is not yet available. However, we are encouraging public comments on the concept of using HCPCS codes to identify specific new technologies on inpatient hospital claims.

f. Development of ICD–10–PCS; A Possible Long-Term Solution

While acknowledging the limitations of the ICD–9–CM system, the Secretary designated the ICD–9–CM system as the national standard in a final rule in the **Federal Register** on August 17, 2000 (65 FR 50311) following notice and comment rulemaking in accordance with Public Law 104–191. In that same final rule, the public was advised that there would be a need in the near future to replace this dated coding system with a system that could better capture today's health care information. At that time, work was proceeding on an updated variant of the ICD system, ICD–10, that could replace ICD–9–CM, but this system was not yet completed. The World Health Organization developed ICD–10 as an international diagnosis coding system. NCHS has been modifying ICD–10 to replace the diagnosis section of ICD–9–CM. This system is being referred to as ICD–10–CM. At the same time, HCFA has been developing the ICD–10–Procedure Coding System (ICD–10–PCS) as a possible replacement for the ICD–9–CM procedure codes.

Criteria for the development of a new procedure coding system were established by the National Committee on Vital and Health Statistics (NCVHS). The criteria included the following:

- Completeness—all substantially different procedures have a unique code.
- Expandability—the structure of the system allows incorporation of new procedures and technologies as unique codes.
- Standardized terminology—the coding system includes definitions of the terminology used. While the meaning of the specific words can vary in common usage, the coding scheme does not include multiple meanings for the same term. Each term is assigned a specific meaning.
- Multiaxial—the system has a multiaxial structure with each code character having the same meaning within the specific procedure section and across procedure sections to the extent possible.
- Diagnostic information is not included in the procedure description.

The ICD–10–PCS was developed using these criteria by HCFA through a contract with 3M Health Information Systems. The ICD–10–PCS system provides much greater code capacity because all substantially different procedures have a unique code. While the ICD–9–CM procedure coding system is limited to a maximum of 10,000 codes, the current draft of ICD–10–PCS contains 197,769 codes and the number could be expanded further.

g. Public Meeting on Implementing ICD–10–PCS

The Department of Health and Human Services is starting the process of soliciting public comments on whether it should proceed to adopt ICD–10–PCS as the national standard for coding inpatient hospital services to replace ICD–9–CM procedures. A public meeting on this issue has been scheduled for May 17, 2001, in the HCFA Auditorium in Baltimore, Maryland. Information on this meeting can be found in the Summary Report of the November 2000 meeting of the ICD–9–CM Coordination and Maintenance Committee at: www.hcfa.gov/medicare/icd9cm.htm. The public is encouraged to attend and participate in the discussion on whether ICD–10–PCS should become a national standard. Organizations and groups will be given the opportunity to make a brief presentation on their members' behalf. Groups wishing to be scheduled to present should contact Pat Brooks, HCFA, at (410) 786–5318. This meeting will begin the process of evaluating ICD–10–PCS as a future national standard.

h. Proposed Methods of Expeditiously Incorporating New Medical Services and Technologies Into the Coding System

In summary, we are proposing a two-part strategy for expeditiously incorporating new medical services and technologies into the clinical coding system used with respect to payment for inpatient hospital services. First, we are proposing to shorten the timeframe for implementing new codes by processing changes that do not have payment implications without first publishing them in the proposed rule in the spring. This means new codes approved at the spring meeting of the ICD–9–CM Coordination and Maintenance Committee could be implemented by October of the same year. We also are proposing to move the November meeting to December. These proposed changes would reduce the time it currently takes to implement new codes, as well as reduce the time required to collect data through the MedPAR by up to a year in many cases.

Second, to make more codes available to identify new technology, we will immediately begin to work with the public to use Chapter 17 of ICD–9–CM procedures. This will provide room for 100 additional procedure codes. We also will continue the current process of adding and revising codes within the current chapters as room and structure allow. Our long-range strategy is to consider the implementation of ICD–10–PCS as a replacement system for ICD–9–CM. However, because of the need to address any such change through notice and public rulemaking procedures (a proposed and final rule), in addition to the need to revise both our payment systems and those of hospitals, this could occur no earlier than October 2003.

7. New Requirements Relative to New Services and Technologies

Section 533 of Public Law 106–554 addresses the process by which new technologies and services are introduced into the DRGs and how DRG payment rates are to be adapted to accommodate them. Section 533(b) added new section 1886(d)(5)(K) to the Act, which specifies that the Secretary must establish criteria to use to identify a new technology after notice and an opportunity for public comment. Under new section 1886(d)(5)(K)(ii)(I) of the Act, effective for discharges occurring on or after October 1, 2001, the Secretary is required to apply a mechanism to recognize the costs of new technologies if, ''based on the estimated costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges under this subsection is inadequate.'' Further, new section 1886(d)(5)(K)(v) stipulates that the requirement for an additional payment for a new medical service or technology may be satisfied by means of ''an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable with respect to a discharge under this subsection.'' Section 533(b) also added a new section 1886(d)(5)(L) to the Act which states that the requirement for an additional payment for a new medical service or technology may also be met through establishing ''new-technology groups into which a new medical service or technology will be classified.''

In section IV.F. of this preamble, we are setting forth, for public comment, our policy proposals to implement section 1886(d)(5)(K) of the Act, as added by section 533(b) of Public Law 106–554. In summary, the proposed policies include—

- Proposed criteria for identifying new medical services and technologies for additional payments beyond the DRG prospective payment system payment.
- The proposed methodology for determining the adequacy of current payments for new services and technology.
- The proposed methodology for determining the amount of the additional payment and for payment mechanism for new medical services and technologies.

III. Proposed Changes to the Hospital Wage Index

A. Background

Section 1886(d)(3)(E) of the Act requires that, as part of the methodology for determining prospective payments to hospitals, the Secretary must adjust the standardized amounts ''for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.'' In accordance with the broad discretion conferred under the Act, we currently define hospital labor market areas based on the definitions of Metropolitan Statistical Areas (MSAs), Primary MSAs (PMSAs), and New England County Metropolitan Areas (NECMAs) issued by the Office of Management and Budget

(OMB). The OMB also designates Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of one million or more, comprising two or more PMSAs (identified by their separate economic and social character). For purposes of the hospital wage index, we use the PMSAs rather than CMSAs since they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA. Rural areas are areas outside a designated MSA, PMSA, or NECMA. For purposes of the wage index, we combine all of the rural counties in a State to calculate a rural wage index for that State.

We note that, effective April 1, 1990, the term Metropolitan Area (MA) replaced the term MSA (which had been used since June 30, 1983) to describe the set of metropolitan areas consisting of MSAs, PMSAs, and CMSAs. The terminology was changed by OMB in the March 30, 1990 **Federal Register** to distinguish between the individual metropolitan areas known as MSAs and the set of all metropolitan areas (MSAs, PMSAs, and CMSAs) (55 FR 12154). For purposes of the prospective payment system, we will continue to refer to these areas as MSAs.

Beginning October 1, 1993, section 1886(d)(3)(E) of the Act requires that we update the wage index annually. Furthermore, this section provides that the Secretary base the update on a survey of wages and wage-related costs of short-term, acute care hospitals. The survey should measure, to the extent feasible, the earnings and paid hours of employment by occupational category, and must exclude the wages and wage-related costs incurred in furnishing skilled nursing services. As discussed below in section III.F. of this preamble, we also take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act when calculating the wage index.

B. FY 2002 Wage Index Update

The proposed FY 2002 wage index values in section V of the Addendum to this proposed rule (effective for hospital discharges occurring on or after October 1, 2001 and before October 1, 2002) are based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in FY 1998 (the FY 2001 wage index was based on FY 1997 wage data).

The proposed FY 2002 wage index includes the following categories of data associated with costs paid under the hospital inpatient prospective payment system (as well as outpatient costs), which were also included in the FY 2001 wage index:

- Salaries and hours from short-term, acute care hospitals.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology for FY 2001, the proposed wage index for FY 2002 also continues to exclude the direct and overhead salaries and hours for services not paid through the inpatient prospective payment system such as skilled nursing facility (SNF) services, home health services, or other subprovider components that are not subject to the prospective payment system.

We calculate a separate Puerto Rico-specific wage index and apply it to the Puerto Rico standardized amount. (See 62 FR 45984 and 46041.) This wage index is based solely on Puerto Rico's data. Finally, section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is not located in a rural area may not be less than the area wage index applicable to hospitals located in rural areas in that State.

C. FY 2002 Wage Index Proposal

Because it is used to adjust payments to hospitals under the prospective payment system, the hospital wage index should, to the extent possible, reflect the wage costs associated with the areas of the hospital included under the hospital inpatient prospective payment system. In response to concerns within the hospital community related to the removal, from the wage index calculation, of costs related to graduate medical education (GME) (teaching physicians and residents) and certified registered nurse anesthetists (CRNAs), which are paid by Medicare separately from the prospective payment system, the American Hospital Association (AHA) convened a workgroup to develop a consensus recommendation on this issue. The workgroup recommended that costs related to GME and CRNAs be phased out of the wage index calculation over a 5-year period. Based upon our analysis of hospitals' FY 1996 wage data, and consistent with the AHA workgroup's recommendation, we specified in the July 30, 1999 final rule (64 FR 41505) that we would phase-out these costs from the calculation of the wage index over a 5-year period, beginning in FY 2000. In keeping with the decision to phase-out costs related to GME and CRNAs, the proposed FY 2002 wage index is based on a blend of 40 percent of an average hourly wage including these costs, and 60 percent of an average hourly wage excluding these costs.

Beginning with the FY 1998 cost reports, we revised the Worksheet S–3, Part II so that hospitals can separately report teaching physician Part A costs on lines 4.01, 10.01, 12.01, and 18.01. Therefore, it is no longer necessary for us to conduct the special survey we used for the FY 2000 and FY 2001 wage indexes (64 FR 41505 and 65 FR 47071).

1. Health Insurance and Health-Related Costs

In the August 1, 2000 final rule, we clarified our definition of ''purchased health insurance costs'' and ''self-insurance'' for hospitals that provide health insurance to employees (65 FR 47073). For purposes of the wage index, purchased or self-funded health insurance plan costs include the hospitals' insurance premium costs, external administration costs, and the share of costs for services delivered to employees.

In response to a comment received concerning this issue, we stated that, for self-funded health insurance costs, personnel costs associated with hospital staff that deliver the services to the employees must continue to be excluded from wage-related costs if the costs are already included in the wage data as salaries on Worksheet S–3, Part II, Line 1. However, after further consideration of this policy, particularly with respect to concerns expressed by our fiscal intermediaries about the level of effort required during the wage index desk review process to ensure hospitals are appropriately identifying and excluding these costs, we are proposing a revision. Effective with the calculation of the FY 2003 wage index, for either purchased or self-funded health insurance, we would allow health insurance personnel costs, associated with hospital staff that deliver services to employees, to be included as part of the wage-related costs. We believe this proposed revised policy will ensure that health insurance costs are consistently reported by hospitals. Health insurance costs would continue to be developed using generally accepted accounting principles.

In the August 1, 2000 final rule (65 FR 47073), we further clarified that health-related costs (including employee physical examinations, flu shots, and clinic visits, and other services that are not covered by employees' health insurance plans but are provided at no cost or at discounted rates to employees of the hospital) may be included as ''other'' wage-related costs if, among

other criteria, the combined cost of all such health-related costs is greater than one percent of the hospital's total salaries (less excluded area salaries).

For purposes of calculating the FY 2003 wage index (which will be based on data for cost reporting periods beginning in FY 1999), we are proposing to revise this policy to allow hospitals to include health-related costs as allowable core wage-related costs.

2. Costs of Contracted Pharmacy and Laboratory Services

Our policy concerning inclusion of contract labor costs for purposes of calculating the wage index has evolved over the years. We recognize the role of contract labor in meeting special personnel needs of many hospitals. In addition, improvements in the wage data have allowed us to more accurately identify contract labor costs and hours. As a result, effective with the FY 1994 wage index, we included the costs of direct patient care contract services in the wage index calculation. The FY 1999 wage index included the costs and hours of certain management contract services, and the FY 2000 wage index included the costs for contract physician Part A services. (The 1996 proposed rule (61 FR 27456) provided an in-depth background to the issues related to the inclusion of contract labor costs in the wage index calculation.)

We revised the 1998 cost report to collect the data associated with contract pharmacy, Worksheet S–3, Part II, Line 9.01, and contract laboratory, Worksheet S–3, Part II, Line 9.02. The cost reporting instructions for these line numbers followed that for all contract labor lines; that is, to include the amount paid for services furnished under contract for direct patient care, and not include cost for equipment, supplies, travel expenses, and other miscellaneous or overhead items (Medicare Provider Reimbursement Manual, Part 2, Cost Reporting Forms and Instructions, Chapter 36, Transmittal 6, page 36–32). Effective with the FY 2002 wage index, which uses FY 1998 wage data, we are proposing to include the costs and hours of contract pharmacy and laboratory.

3. Collection of Occupational Mix Data

Section 304(c) of Public Law 106–554 amended section 1886(d)(3)(E) of the Act to require that the Secretary must provide for the collection of data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index. The initial collection of these data must be completed by September 30, 2003, for application beginning October 1, 2004.

Currently, the wage data collected by HCFA on the cost report reflect the sum of wages, hours, and wage-related costs for all hospital employees. There is no separate collection by occupational categories of employees, such as registered nurses or physical therapists. Total salaries and hours reflect management decisions made by hospitals in terms of how many employees within a certain occupation to employ to treat different types of patients. For example, a large academic medical center may tend to hire more high-cost specialized employees to treat its more acutely ill patient population. The argument is that the higher labor costs incurred to treat this patient population are reflected in the higher case mix of these hospitals, and therefore, reflecting these costs in the wage index is essentially counting them twice.

An occupational mix adjustment can be used to account for hospital management decisions about how many employees to hire in each occupational category. Occupational mix data measure the price the hospital must pay for employees within each category. A wage index that reflected only these market prices would remove the impact of management decisions about the mix of employees needed and, therefore, better capture geographic variations in the labor market.

We have examined this issue previously. In the May 27, 1994 **Federal Register** (59 FR 27724), we discussed the outcome of consideration of this issue by a hospital workgroup. At that time, the workgroup's consensus was that the data required to implement an occupational mix adjustment were not available and the likelihood of obtaining such data would be minimal. There seemed to be little support among hospital industry representatives for developing a system that would create additional reporting burdens with an unproven or minimal impact on the distribution of payments. Also, in the August 30, 1991 **Federal Register** (56 FR 43219), we stated our belief that the collection of these data would be costly and difficult.

In considering the format to collect occupational mix data, we looked to data currently being collected by the Bureau of Labor Statistics (BLS), which conducts an annual mail survey to produce estimates of employment and wages for specific occupations. This program, Occupational Employment Statistics (OES), collects data on wage and salary workers in nonfarm establishments in order to produce employment and wage estimates for over 700 occupations.

The OES survey collects wage data in 12 hourly rate intervals. Employers report the number of employees in an occupation per each wage range. To illustrate, the wage intervals used for the 1999 survey are as follows:

Interval	Hourly wages	Annual wages
Range A	Under $6.75	Under $14,040
Range B	6.75 to 8.49	14,040 to 17,659
Range C	8.50 to 10.74	17,660 to 22,359
Range D	10.75 to 13.49	22,360 to 28,079
Range E	13.50 to 16.99	28,080 to 35,359
Range F	17.00 to 21.49	35,360 to 44,719
Range G	21.50 to 27.24	44,720 to 56,679
Range H	27.25 to 34.49	56,680 to 71,759
Range I	34.50 to 43.74	71,760 to 90,999
Range J	43.75 to 55.49	91,000 to 115,439
Range K	55.50 to 69.99	115,440 to 145,599
Range L	70,000 and over	145,600 and over

It should be noted that this table is for illustrative purposes, and we may update the data ranges in our actual collection instrument.

Although we initially considered using the OES data, section 304(c) of Public Law 106–554 requires us to

collect data from every short-term, acute care hospital. The OES data are a sample survey and, therefore, as currently conducted, are not consistent with the statutory requirement to include data from every hospital. Another issue with using OES data is that, for purposes of the Medicare wage index, the hospitals' data must be reviewed and verified by the fiscal intermediaries. The OES survey is a voluntary survey.

Although we decided to pursue a separate data collection effort than OES, we propose to model our format after the one used by OES. In this way, hospitals participating in the OES survey, should have no additional recordkeeping and reporting requirements beyond those of the OES survey.

The OES survey of the hospital industry is designed to capture all occupational categories within the industry. For purposes of adjusting the wage index for occupational mix, we do not believe it is necessary to collect data from such a comprehensive scope of categories. Furthermore, because the data must be audited, a comprehensive list of categories would be excessively burdensome.

In deciding which job categories to include, we reviewed the occupational categories collected by OES and identified those with at least 35,000 hospital employees. Our goal is to collect data from a sample of job categories that provides a valid measure of wage rates within a geographical area. Using this threshold of at least 35,000 employees within a category nationally, we are proposing to collect the number of employees by wage range as illustrated in the above table, for the occupational categories listed below. The following data are based on the 1999 OES survey:

OES code	Category	Employees	Percent of total hospital employees	Mean hourly wage
15008	Medicine and Health Services Managers	93,680	1.9	$27.38
27302	Social Workers, Medial and Psychiatric	53,360	1.1	16.33
32102	Physicians and Surgeons	125,640	2.6	43.76
32308	Physical Therapists	39,840	0.8	26.14
32502	Registered Nurses	1,231,980	25.0	21.12
32505	Licensed Practical Nurses	206,360	4.2	13.39
32517	Pharmacists	46,860	1.0	28.62
32911, 32928, 32931	Clinical Technologists and Technicians	122,380	2.50	11.69
51002, 55105, 55108, 55305 55332, 55347	First-Line Supervisors and Clerical Workers	445,730	9.5	11.39
65038, 67002, 67005	Food Preparation Workers and Housekeeping.	218,440	4.5	8.17
66008	Nursing Aides, Orderlies, and Attendants	301,240	6.2	8.67

We believe this list of occupational categories provides a good representation of the employee mix at most hospitals. Definitions for each occupational category are available on the BLS website at http://stats.bls.gov/oes/1999/oes_alph.htm.

We have yet to settle on the methodology on how to use the occupational mix index. One option would be to weight each hospital's wage index by its occupational mix index. This requires calculating a national occupational mix index and then breaking it down by MSA and by hospital, similar to how the wage index is broken down. In this way, the wage index would capture geographic differences in wage rates. The decision about how to apply the occupational mix index to the wage index depends on the quality of the data collected, since this effort will be the first time wage and hour data by occupation are collected in this audited manner.

Section 304(c) directs the Secretary to provide for the collection of these data by September 30, 2003, and to apply them in the wage index by October 1, 2004. Therefore, the data are to be incorporated in the FY 2005 wage index. Under our current timetable, the FY 2005 wage index will be based on wage data collected from hospitals' cost reporting periods beginning during FY 2001. In order to facilitate the fiscal intermediaries' review of these data, we believe the occupational mix data should coincide with the data otherwise used to calculate the cost report. Therefore, we will conduct a special survey of all short-term acute-care hospitals that are required to report wage data to collect these data coinciding with hospitals' FY 2001 cost reports. More specific procedural information regarding this survey will be included in the FY 2002 final rule scheduled to be published by August 1, 2001.

D. Verification of Wage Data From the Medicare Cost Report

The data for the proposed FY 2002 wage index were obtained from Worksheet S–3, Parts II and III of the FY 1998 Medicare cost reports. The data file used to construct the proposed wage index includes FY 1998 data submitted to HCFA as of mid-February 2001. As in past years, we performed an intensive review of the wage data, mostly through the use of edits designed to identify aberrant data.

We asked our fiscal intermediaries to revise or verify data elements that resulted in specific edit failures. Some unresolved data elements are included in the calculation of the proposed FY 2002 wage index pending their resolution before calculation of the final FY 2002 wage index. We have instructed the intermediaries to complete their verification of questionable data elements and to transmit any changes to the wage data no later than April 9, 2001. We expect that all unresolved data elements will be resolved by that date. The revised data will be reflected in the final rule.

Also, as part of our editing process, we removed data for 47 hospitals that failed edits. For 23 of these hospitals, we were unable to obtain sufficient documentation to verify or revise the data because the hospitals are no longer participating in the Medicare program or are in bankruptcy status. Twenty-four hospitals had incomplete or inaccurate data resulting in zero or negative average hourly wages. Therefore, they were removed from the calculation. The data for these hospitals will be included in the final wage index if we receive corrected data that pass our edits. As a result, the proposed FY 2002 wage index is calculated based on FY 1998 wage data for 4,868 hospitals.

E. Computation of the Proposed FY 2002 Wage Index

We note a proposed technical change to the FY 2002 calculation. For the FY 2001 wage index calculation, we initially proposed to subtract Line 13 of Worksheet S–3, Part III from total hours when determining the excluded hours ratio used to estimate the amount of overhead attributed to excluded areas (65 FR 26299). However, the formula resulted in large and inappropriate increases in the average hourly wages for some hospitals (65 FR 47074), particularly hospitals that have large overhead and excluded area costs. Therefore, for the final FY 2001 wage index calculation, we reverted to the FY 2000 excluded hours ratio formula, which did not subtract Line 13.

We, and others in the hospital community, continued to believe that subtracting Part III, Line 13 from total hours is the correct formula for determining the excluded hours ratio. We analyzed how the application of this formula resulted in overstated average hourly wages for some hospitals and how we could improve the overall accuracy of the overhead allocation methodology. We became aware that the problem was not in the excluded hours ratio formula. Rather, our wage index calculation did not also remove the overhead wage-related costs associated with excluded areas, an amount that must be estimated before it can be subtracted from the calculation. The combined effect of applying the excluded hours ratio formula, which appropriately removes salaries of lower-wage, overhead employees, and not subtracting overhead wage-related costs associated with excluded areas, resulted in overstated salary costs and average hourly wages.

For the FY 2002 wage index calculation, we are proposing to apply the excluded hours ratio formula that subtracts Part III, Line 13 from total hours. Additionally, for the first time in the wage index calculation, we estimated and subtracted overhead wage-related costs allocated to excluded areas.

After we applied this new calculation, there were still a few hospitals that experienced large increases in their average hourly wages. The intermediaries verified that the hospitals' wage data were accurate, so we kept the data in the wage index calculation. These hospitals primarily function as SNFs, psychiatric hospitals, or rehabilitation hospitals that have few acute care beds. The hospitals' higher average hourly wages reflect the costs of the higher salaried employees that remain in the wage index calculation after we subtract the costs of excluded area and associated overhead employees.

The method used to compute the proposed FY 2002 wage index follows.

Step 1—As noted above, we are proposing to base the FY 2002 wage index on wage data reported on the FY 1998 Medicare cost reports. We gathered data from each of the non-Federal, short-term, acute care hospitals for which data were reported on the Worksheet S–3, Parts II and III of the Medicare cost report for the hospital's cost reporting period beginning on or after October 1, 1997 and before October 1, 1998. In addition, we included data from any hospital that had cost reporting periods beginning before October 1997 and reported a cost reporting period covering all of FY 1998. These data were included because no other data from these hospitals would be available for the cost reporting period described above, and because particular labor market areas might be affected due to the omission of these hospitals. However, we generally describe these wage data as FY 1998 data. We note that, if a hospital had more than one cost reporting period beginning during FY 1998 (for example, a hospital had two short cost reporting periods beginning on or after October 1, 1997 and before October 1, 1998), we included wage data from only one of the cost reporting periods, the longest, in the wage index calculation. If there was more than one cost reporting period and the periods were equal in length, we included the wage data from the latest period in the wage index calculation.

Step 2—Salaries—The method used to compute a hospital's average hourly wage is a blend of 40 percent of the hospital's average hourly wage including all GME and CRNA costs, and 60 percent of the hospital's average hourly wage after eliminating all GME and CRNA costs.

In calculating a hospital's average salaries plus wage-related costs, including all GME and CRNA costs, we subtracted from Line 1 (total salaries) the Part B salaries reported on Lines 3 and 5, home office salaries reported on Line 7, and excluded salaries reported on Lines 8 and 8.01 (that is, direct salaries attributable to skilled nursing facility services, home health services, and other subprovider components not subject to the prospective payment system). We also subtracted from Line 1 the salaries for which no hours were reported on Lines 2, 4, and 6. To determine total salaries plus wage-related costs, we added to the net hospital salaries the costs of contract labor for direct patient care, certain top management, pharmacy, laboratory, and physician Part A services (Lines 9, 9.01, 9.02, 10, and 10.01), home office salaries and wage-related costs reported by the hospital on Lines 11, 12, and 12.01, and nonexcluded area wage-related costs (Lines 13, 14, 16, 18, 18.01, and 20).

We note that contract labor and home office salaries for which no corresponding hours are reported were not included. In addition, wage-related costs for specific categories of employees (Lines 16, 18, 18.01, and 20) are excluded if no corresponding salaries are reported for those employees (Lines 2, 4, 4.01, and 6, respectively).

We then calculated a hospital's salaries plus wage-related costs by subtracting from total salaries the salaries plus wage-related costs for teaching physicians, Lines (4.01, 10.01, 12.01, and 18.01), Part A CRNAs (Lines 2 and 16), and residents (Lines 6 and 20).

Step 3—Hours—With the exception of wage-related costs, for which there are no associated hours, we computed total hours using the same methods as described for salaries in Step 2.

Step 4—For each hospital reporting both total overhead salaries and total overhead hours greater than zero, we then allocated overhead costs to areas of the hospital excluded from the wage index calculation. First, we determined the ratio of excluded area hours (sum of Lines 8 and 8.01 of Worksheet S–3, Part II) to revised total hours (Line 1 minus the sum of Part II, Lines 3, 5, 7, and Part III, Line 13 of Worksheet S–3). We then computed the amounts of overhead salaries and hours to be allocated to excluded areas by multiplying the above ratio by the total overhead salaries and hours reported on Line 13 of Worksheet S–3, Part III. Next, we computed the amounts of overhead wage-related costs to be allocated to excluded areas using three steps: (1) We determined the ratio of overhead hours (Part III, Line 13) to revised hours (Line 1 minus the sum of Lines 3, 5, and 7); (2) we computed overhead wage-related costs by multiplying the overhead hours ratio by wage-related costs reported on Part II, Lines 13, 14, 16, 18, 18.01, and 20; and (3) we multiplied the computed overhead wage-related costs by the above excluded area hours ratio. Finally, we subtracted the computed overhead salaries, wage-related costs, and hours associated with excluded areas from the total salaries (plus wage-related costs) and hours derived in Steps 2 and 3. Using the above method for computing overhead salaries, wage-related costs, and hours to allocate to

excluded areas, we also computed these costs excluding all costs associated with GME and CRNAs (Lines 2, 4.01, 6, 10.01, 12.01, and 18.01).

Step 5—For each hospital, we adjusted the total salaries plus wage-related costs to a common period to determine total adjusted salaries plus wage-related costs. To make the wage adjustment, we estimated the percentage change in the employment cost index (ECI) for compensation for each 30-day increment from October 14, 1997 through April 15, 1999 for private industry hospital workers from the Bureau of Labor Statistics' *Compensation and Working Conditions.* We use the ECI because it reflects the price increase associated with total compensation (salaries plus fringes) rather than just the increase in salaries. In addition, the ECI includes managers as well as other hospital workers. This methodology to compute the monthly update factors uses actual quarterly ECI data and assures that the update factors match the actual quarterly and annual percent changes. The factors used to adjust the hospital's data were based on the midpoint of the cost reporting period, as indicated below.

MIDPOINT OF COST REPORTING PERIOD

After	Before	Adjustment factor
12/14/97	01/15/98	1.03292
01/14/98	02/15/98	1.03048
02/14/98	03/15/98	1.02828
03/14/98	04/15/98	1.02621
04/14/98	05/15/98	1.02411
05/14/98	06/15/98	1.02200
06/14/98	07/15/98	1.01973
07/14/98	08/15/98	1.01714
08/14/98	09/15/98	1.01424
09/14/98	10/15/98	1.01137
10/14/98	11/15/98	1.00885
11/14/98	12/15/98	1.00669
12/14/98	01/15/99	1.00462
01/14/99	02/15/99	1.00239
02/14/99	03/15/99	1.00000
03/14/99	04/15/99	0.99746

For example, the midpoint of a cost reporting period beginning January 1, 1998 and ending December 31, 1998 is June 30, 1998. An adjustment factor of 1.01973 would be applied to the wages of a hospital with such a cost reporting period. In addition, for the data for any cost reporting period that began in FY 1998 and covered a period of less than 360 days or more than 370 days, we annualized the data to reflect a 1-year cost report. Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365.

Step 6—Each hospital was assigned to its appropriate urban or rural labor market area before any reclassifications under section 1886(d)(8)(B) or section 1886(d)(10) of the Act. Within each urban or rural labor market area, we added the total adjusted salaries plus wage-related costs obtained in Step 5 (with and without GME and CRNA costs) for all hospitals in that area to determine the total adjusted salaries plus wage-related costs for the labor market area.

Step 7—We divided the total adjusted salaries plus wage-related costs obtained under both methods in Step 6 by the sum of the corresponding total hours (from Step 4) for all hospitals in each labor market area to determine an average hourly wage for the area.

Because the proposed FY 2002 wage index is based on a blend of average hourly wages, we then added 40 percent of the average hourly wage calculated without removing GME and CRNA costs, and 60 percent of the average hourly wage calculated with these costs excluded.

Step 8—We added the total adjusted salaries plus wage-related costs obtained in Step 5 for all hospitals in the nation and then divided the sum by the national sum of total hours from Step 4 to arrive at a national average hourly wage (using the same blending methodology described in Step 7). Using the data as described above, the national average hourly wage is $22.0545.

Step 9—For each urban or rural labor market area, we calculated the hospital wage index value by dividing the area average hourly wage obtained in Step 7 by the national average hourly wage computed in Step 8.

Step 10—Following the process set forth above, we developed a separate Puerto Rico-specific wage index for purposes of adjusting the Puerto Rico standardized amounts. (The national Puerto Rico standardized amount is adjusted by a wage index calculated for all Puerto Rico labor market areas based on the national average hourly wage as described above.) We added the total adjusted salaries plus wage-related costs (as calculated in Step 5) for all hospitals in Puerto Rico and divided the sum by the total hours for Puerto Rico (as calculated in Step 4) to arrive at an overall average hourly wage of $10.8100 for Puerto Rico. For each labor market area in Puerto Rico, we calculated the Puerto Rico-specific wage index value by dividing the area average hourly wage (as calculated in Step 7) by the overall Puerto Rico average hourly wage.

Step 11—Section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is located in an urban area may not be less than the area wage index applicable to hospitals located in rural areas in that State. Furthermore, this wage index floor is to be implemented in such a manner as to ensure that aggregate prospective payment system payments are not greater or less than those that would have been made in the year if this section did not apply. For FY 2002, this change affects 240 hospitals in 41 MSAs. The MSAs affected by this provision are identified in Table 4A by a footnote.

F. Revisions to the Wage Index Based on Hospital Redesignation

Under section 1886(d)(8)(B) of the Act, hospitals in certain rural counties adjacent to one or more MSAs are considered to be located in one of the adjacent MSAs if certain standards are met. Under section 1886(d)(10) of the Act, the MGCRB considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system.

1. Provisions of Public Law 106–554

Section 304 of Public Law 106–554 made changes to several provisions of section 1886(d)(10) of the Act relating to hospital reclassifications and the wage index:

- Section 304(a) amended section 1886(d)(10)(D) of the Act by adding a clause (v) to provide that, beginning with FY 2001, an MGCRB decision on a hospital reclassification for purposes of the wage index is effective for 3 years, unless the hospital elects to terminate the reclassification. Section 304(a) also provides that the MGCRB must use the 3 most recent years' average hourly wage data in evaluating a hospital's reclassification application for FY 2003 and any succeeding fiscal year (section 1886(d)(10)(D)(vi) of the Act).
- Section 304(b) provides that, by October 1, 2001, the Secretary must establish a mechanism under which a statewide entity may apply to have all of the geographic areas in the State treated as a single geographic area for purposes of computing and applying a single wage index, for reclassifications beginning in FY 2003. Section 304(b) further requires that, if the Secretary applies a statewide wage index to an area, an application by an individual hospital in that area would not be considered.

We address our policy proposals relating to implementation of these three provisions of sections 304(a) and (b) of Public Law 106–554 in section IV. of this proposed rule. The following

discussion of the proposed revisions to the wage index based on hospital redesignations reflects these proposed policies.

2. Effects of Reclassification

The methodology for determining the wage index values for redesignated hospitals is applied jointly to the hospitals located in those rural counties that were deemed urban under section 1886(d)(8)(B) of the Act and those hospitals that were reclassified as a result of the MGCRB decisions under section 1886(d)(10) of the Act. Section 1886(d)(8)(C) of the Act provides that the application of the wage index to redesignated hospitals is dependent on the hypothetical impact that the wage data from these hospitals would have on the wage index value for the area to which they have been redesignated. Therefore, as provided in section 1886(d)(8)(C) of the Act, the wage index values were determined by considering the following:

- If including the wage data for the redesignated hospitals would reduce the wage index value for the area to which the hospitals are redesignated by 1 percentage point or less, the area wage index value determined exclusive of the wage data for the redesignated hospitals applies to the redesignated hospitals.
- If including the wage data for the redesignated hospitals reduces the wage index value for the area to which the hospitals are redesignated by more than 1 percentage point, the area wage index determined inclusive of the wage data for the redesignated hospitals (the combined wage index value) applies to the redesignated hospitals.
- If including the wage data for the redesignated hospitals increases the wage index value for the area to which the hospitals are redesignated, both the area and the redesignated hospitals receive the combined wage index value.
- The wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located.
- Rural areas whose wage index values would be reduced by excluding the wage data for hospitals that have been redesignated to another area continue to have their wage index values calculated as if no redesignation had occurred.
- Rural areas whose wage index values increase as a result of excluding the wage data for the hospitals that have been redesignated to another area have their wage index values calculated exclusive of the wage data of the redesignated hospitals.
- Currently, the wage index value for an urban area is calculated exclusive of the wage data for hospitals that have been reclassified to another area.

For the FY 2002 wage index, we are proposing to include the wage data for a reclassified urban hospital in both the area to which it is reclassified and the MSA where the hospital is physically located. We believe this will improve consistency and predictability in hospital reclassification and wage indices, as well as alleviate the fluctuations in the wage indexes due to reclassifications. For example, hospitals applying to reclassify into another area will know which hospitals' data will be included in calculating the wage index, because even if some hospitals in the area are reclassified, their data will be included in the calculation of the wage index of the area where they are geographically located. Also, in some cases, excluding the data of hospitals reclassified to another MSA could have a large downward impact on the wage index of the MSA in which the hospital is physically located. The negative impact of removing the data of the reclassified hospitals from the wage index calculation could lead to large wage disparities between the reclassified hospitals and other hospitals in the MSA, as the remaining hospitals would receive reduced payments due to a lower wage index. Our proposed approach would promote consistency, and simplify our rules, with respect to how we construct the wage indexes of rural and urban areas. As noted above, in the case of rural hospitals redesignated to another area, the wage index of the rural area where the hospitals are geographically located is calculated by including the wage data of the redesignated hospitals (unless doing so would result in a lower wage index).

Finally, we note that the Medicare Payment Advisory Commission (MedPAC), in its March 2001 ''Report to the Congress: Medicare Payment Policy,'' recommended this policy (p. 82). (Section VII. of this preamble includes a discussion of MedPAC's recommendations and our responses.) To illustrate the potential negative impact on hospitals in an area where reclassifications of some hospitals to another area results in a decline in the wage index after the reclassified hospitals are excluded from the wage index calculation, MedPAC points out that hospitals in several MSAs have organized to pay qualifying hospitals not to reclassify. Our proposed policy change would remove this distorted incentive.

The proposed wage index values for FY 2002 are shown in Tables 4A, 4B, 4C, and 4F in the Addendum to this proposed rule. Hospitals that are redesignated should use the wage index values shown in Table 4C. Areas in Table 4C may have more than one wage index value because the wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located. When the wage index value of the area to which a hospital is redesignated is lower than the wage index value for the rural areas of the State in which the hospital is located, the redesignated hospital receives the higher wage index value; that is, the wage index value for the rural areas of the State in which it is located, rather than the wage index value otherwise applicable to the redesignated hospitals.

As mentioned earlier, section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding a new clause (v) to provide that a reclassification of a hospital by the MGCRB for purposes of the wage index is effective for 3 years (instead of 1 year) unless, under procedures established by the Secretary, the hospital elects to terminate the reclassification before the end of the 3-year period. Section 304(a) of Public Law 106–554 also amended section 1886(d)(10)(D) of the Act to specify that, for applications for reclassification for the wage index for FYs 2003 and later, the MGCRB must base any comparison of the average hourly wage of the hospital with the average hourly wage for hospitals in the area in which it is located and the area to which it seeks reclassification, using data from the most recently published hospital wage survey (as of the date of the hospital's application), as well as data from each of the two immediately preceding surveys. (Our policy proposals to incorporate the provisions of section 304(a) of Public Law 106–554 in the regulations are addressed in section IV.E. of this proposed rule).

Consistent with the section 304(a) amendment, Tables 3A and 3B list the 3-year average hourly wage for each labor market area before the redesignation of hospitals, based on FY 1996, 1997, and 1998 wage data. In addition, Table 2 in the Addendum to this proposed rule includes the adjusted average hourly wage for each hospital from the FY 1996 and FY 1997 cost reporting periods, as well as the FY 1998 period. Table 2 also shows the 3-year average (as well as hospitals' average hourly wages for each of the 3 years) that the MGCRB will use (as published in the final rule following

this proposed rule) to evaluate a hospital's application for reclassification for FY 2003 (unless that average hourly wage is later revised in accordance with § 412.63(w)(2)). The 3-year averages are calculated by dividing the sum of the dollars (adjusted to a common reporting period using the method described previously in this section) across all 3 years, by the sum of the hours. If a hospital is missing data for any of the previous years, its average hourly wage for the 3-year period is calculated based on the data available during that period.

Applications for FY 2003 reclassifications are due to the MGCRB by September 1, 2001. (We note that the new location and mailing address of the MGCRB and the Provider Reimbursement Review Board (PRRB) is: 2520 Lord Baltimore Drive, Suite L, Baltimore, MD 21244–2670. The MGCRB and PRRB will be functioning at this new location as of May 21, 2001. Also, please specify whether the mail is intended for the MGCRB or the PRRB.)

At the time this proposed wage index was constructed, the MGCRB had completed its review of FY 2002 reclassification requests. The proposed FY 2002 wage index values incorporate all 643 hospitals redesignated for purposes of the wage index (hospitals redesignated under section 1886(d)(8)(B) or section 1886(d)(10) of the Act for FY 2002. The final number of reclassifications may vary because some MGCRB decisions are still under review by the Administrator and because some hospitals may withdraw their requests for reclassification.

Any changes to the wage index that result from withdrawals of requests for reclassification, wage index corrections, appeals, and the Administrator's review process will be incorporated into the wage index values published in the final rule following this proposed rule. The changes may affect not only the wage index value for specific geographic areas, but also the wage index value redesignated hospitals receive; that is, whether they receive the wage index value for the area to which they are redesignated, or a wage index value that includes the data for both the hospitals already in the area and the redesignated hospitals. Further, the wage index value for the area from which the hospitals are redesignated may be affected.

Under § 412.273, hospitals that have been reclassified by the MGCRB are permitted to withdraw their applications within 45 days of the publication of this proposed rule in the **Federal Register.** The request for withdrawal of an application for reclassification that would be effective in FY 2002 must be received by the MGCRB by June 18, 2001. A hospital that requests to withdraw its application may not later request that the MGCRB decision be reinstated.

In addition, because the 3-year effect of the amendment made by section 304(a) of Public Law 106–554 is applicable to reclassifications for FY 2001 (which had already taken place prior to the date of enactment of Public Law 106–554) and because the application process for reclassification for FY 2002 had already been completed by the date of enactment, we are deeming hospitals that are reclassified for purposes of the wage index to one area for FY 2001 and are reclassified for purposes of the wage index or the standardized amount to another area for FY 2002 to be reclassified to the area for which they applied for FY 2002, unless they elect to receive the wage index reclassification they were granted for FY 2001. Consistent with our application withdrawal procedures under § 412.273, we are allowing hospitals that wish to receive, for FY 2002, the reclassification they were granted for FY 2001, to withdraw their applications within 45 days of the publication of this proposed rule (that is, by June 18, 2001. (These procedures are discussed in detail under section IV.E.1. of this preamble.)

3. Statewide Wage Index

As stated earlier, section 304(b) of Public Law 106–554 requires the Secretary to establish, by October 1, 2001, a process (based on the voluntary process utilized by the Secretary under section 1848 of the Act) under which an appropriate statewide entity may apply to have all the geographic areas in the State treated as a single geographic area for purposes of computing and applying a single wage index, for reclassification beginning in FY 2003. Section 304(b) further requires that, if the Secretary applies a statewide wage index to an area, an application by an individual hospital in that area would not be considered. We believe the reference to the voluntary process utilized by the Secretary under section 1848 of the Act refers to the process whereby we allow a State containing multiple physician fee schedule payment areas (and thus multiple geographic adjustment factors) to voluntarily convert to a single statewide payment area with a single geographic adjustment factor (see § 414.4(b), as discussed in the June 24, 1994 **Federal Register** (59 FR 32759).

Section IV.E. of this proposed rule contains our policy proposal for implementing the provisions of section 304(b) in regulations. We are proposing that hospitals that seek a statewide geographic reclassification under the amendments made by section 304(b) of Public Law 106–554 apply to the MGCRB with the same deadlines as other hospitals. An approved application by the MGCRB would mean that the data of all the hospitals in the State would be used in computing and applying the wage index for that State. We are proposing that the statewide wage index would be applicable for 3 years from the date of approval or until all of the participating hospitals terminate their approved statewide wage index reclassification (effective with the next full fiscal year after their termination request), whichever occurs first.

4. Section 402 of Public Law 106–113

Beginning October 1, 1988, section 1886(d)(8)(B) of the Act required us to treat a hospital located in a rural county adjacent to one or more urban areas as being located in the MSA to which the greatest number of workers in the county commute, if the rural county would otherwise be considered part of an urban area under the standards published in the **Federal Register** on January 3, 1980 (45 FR 956) for designating MSAs (and for designating NECMAs), and if the commuting rates used in determining outlying counties (or, for New England, similar recognized areas) were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of *all* contiguous MSAs (or NECMAs). Hospitals that met the criteria using the January 3, 1980 version of these OMB standards were deemed urban for purposes of the standardized amounts and for purposes of assigning the wage data index.

During FY 1994, we incorporated the revised MSA definitions based on 1990 census population data. As a result, some counties that previously were treated as an adjacent county under section 1886(d)(8)(B) of the Act officially became part of certain MSAs. However, as specified in the Act, we continued to utilize the January 3, 1980 standards. For FY 2000, there were 27 hospitals in 22 counties affected by this provision.

On March 30, 1990, OMB issued revised 1990 standards (55 FR 12154). There has been an increasing amount of interest by the hospital industry in using the 1990 standards as opposed to the 1980 standards to determine which hospitals qualify under the provisions set forth in section 1886(d)(8)(B) of the Act. Section 402 of Public Law 106–113 provides that, with respect to FYs 2001

and 2002, a hospital may elect to have the 1990 standards applied to it for purposes of section 1886(d)(8)(B) and that, beginning with FY 2003, hospitals will be required to use the standards published in the **Federal Register** by the Director of OMB based on the most recent decennial census.

We worked with staff of the Population Distribution Branch within the Population Division of the United States Census Bureau to compile a list of hospitals that meet the March 30, 1990 standards using 1990 census population data and information prepared for the Metropolitan Area Standards Review Project. The conditions that must be met for a hospital located in a rural county adjacent to one or more urban areas to be treated as being located in the urban area to which the greatest number of workers in the rural county commute are as follows:

• The rural county would otherwise be considered part of an MSA but for the fact that the rural county does not meet the standard established by OMB relating to the commuting rate of workers between the county and the central county or counties of any adjacent MSA.

• The county would meet the commuting standard if commuting to (and where applicable, from) the central county or central counties of all adjacent MSAs or NECMAs (rather than to just one) were considered.

A county meeting the above commuting standards must also meet the other standards established by OMB for inclusion in an MSA as an outlying county. In order to meet these requirements, the rural county must have a degree of ''metropolitan character.'' ''Metropolitan character'' is established by meeting one of the following OMB standards, which were published in the **Federal Register** on March 30, 1990:

a. At least 50 percent of the employed workers residing in the county commute to the central county/counties, and either—

• The population density of the county is at least 25 persons per square mile; or

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

b. From 40 to 50 percent of the employed workers commute to the central county/counties, and either—

• The population density is at least 35 persons per square mile; or

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

c. From 25 to 40 percent of the employed workers commute to the central county/counties and either the population density of the county is at least 50 persons per square mile, or any two of the following conditions exist:

• Population density is at least 35 persons per square mile.

• At least 35 percent of the population is urban.

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

d. From 15 to 25 percent of the employed workers commute to the central county/counties, the population density of the county is at least 50 persons per square mile, and any two of the following conditions also exist:

• Population density is at least 60 persons per square mile.

• At least 35 percent of the population is urban.

• Population growth between the last two decennial censuses is at least 20 percent.

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

Also accepted as meeting this commuting requirement under item d. are:

• The number of persons working in the county who live in the central county/counties is equal to at least 15 percent of the number of employed workers living in the county; or

• The sum of the number of workers commuting to and from the central county/counties is equal to at least 20 percent of the number of employed workers living in the county.

e. From 15 to 25 percent of the employed workers commute to the central county/counties, the population density of the county is less than 50 persons per square mile, and any two of the following conditions also exist:

• At least 35 percent of the population is urban.

• Population growth between the last two decennial censuses is at least 20 percent.

• At least 10 percent of the population, or at least 5,000 persons, lives in the qualifier urbanized area(s).

f. At least 2,500 of the population lives in a central city of the MSA located in the qualifier urbanized area(s).

When we apply the 1990 standards as opposed to 1980 standards, the number of qualifying counties increases from 22 to 31. On the basis of the evaluation of these data, effective for discharges occurring on or after October 1, 2001, hospitals located in the first column of the following table are proposed to be considered, for purposes of assigning the inpatient standardized amount and the wage index, to be located in the corresponding urban area in the second column:

Rural County	MSA
Chilton, AL	Birmingham, AL.
Marshall, AL	Huntsville, AL.
Talladega, AL	Anniston, AL.
Bradford, FL	Jacksonville, FL.
Hendry, FL	West Palm Beach-Boca Raton, FL.
Putnam, FL	Gainesville, FL.
Jackson, GA	Athens, GA.
Christian, IL	Springfield, IL.
Macoupin, IL	St. Louis, MO–IL.
Piatt, IL	Champaign-Urbana, IL.
Brown, IN	Indianapolis, IN.
Carroll, IN	Lafayette, IN.
Henry, IN	Indianapolis, IN.
Jefferson, KS	Topeka, KS.
Barry, MI	Kalamazoo-Battle Creek, MI.
Cass, MI	Benton Harbor, MI.
Ionia, MI	Grand Rapids-Muskegon-Holland, MI.
Shiawassee, MI	Flint, MI.
Tuscola, MI	Saginaw-Bay City-Midland, MI
Caswell, NC	Greensboro-Winston Salem-High Point, NC.
Greene, NC	Greenville, NC.
Harnett, NC	Raleigh-Durham-Chapel Hill, NC.
Wilson, NC	Rocky Mount, NC.
Preble, OH	Dayton-Springfield, OH.
Van Wert, OH	Lima, OH.
Adams, PA	York, PA.
Lawrence, PA	Pittsburgh, PA.
Monroe, PA	Newark, NJ.
Schuylkill, PA	Reading, PA.
Jefferson, WI	Milwaukee-Waukesha, WI.
Walworth, WI	Milwaukee-Waukesha, WI.

There are 14 counties that meet the qualifying criteria using 1990 standards that did not meet the criteria using the 1980 standards. These 14 counties are:

Chilton, AL
Talladega, AL
Bradford, FL
Hendry, FL
Putnam, FL
Jackson, GA
Piatt, IL
Brown, IN
Carroll, IN
Greene, NC
Wilson, NC
Adams, PA
Monroe, PA
Schuylkill, PA

In addition, when we apply the 1980 standards for three of the counties, the MSA assigned is different from the MSA that would be assigned using the 1990 standards. These counties are as follows:

Rural county	1980 MSA designation	1990 MSA designation
Ionia, MI	Lansing-East Lansing, MI	Grand Rapids-Muskegon-Hollan, MI.
Caswell, NC	Danville, VA	Greensboro-Winston Salem-High Point, NC.
Harnett, NC	Fayetteville, NC	Raleigh-Durham-Chapel Hill, NC.

Section 402 of Public Law 106–113 states that hospitals may elect to use either the January 3, 1980 standards or the March 30, 1990 standards for payments during FY 2001 and FY 2002. We are assuming hospitals will elect to go to the MSA resulting in the highest payment amount accounting for the applicable wage indexes and standardized amounts. Based on our analysis, we believe all hospitals in the designated rural counties would benefit by being included in the respective MSAs shown above. Therefore, we are proposing to assign the FY 2002 standardized amount and wage index of each respective MSA to the affected hospitals. Hospitals electing not to use the 1990 standards would be required to notify their fiscal intermediary in writing of such election prior to September 1, 2001, in order to allow sufficient time to reflect this change in our payment systems. (For FY 2001, we are providing further information related to this election, including recalculated wage indexes, through separate instruction.)

We note that five rural counties no longer meet the qualifying criteria when we apply the revised OMB standards. These rural counties are as follows: Indian River, FL; Mason, IL; Owen, IN; Morrow, OH; and Lincoln, WV. For FY 2002, we propose to continue to treat these hospitals as attached to an MSA on the basis of the 1980 standards. Beginning FY 2003, they must meet the 1990 standards to continue to be treated as such.

We stated in the August 1, 2000 final rule that implemented changes to the prospective payment system for FY 2001 that we were in the process of working with OMB to identify the hospitals that would be affected by section 402 of Public Law 106–113 (65 FR 47076). We further indicated we would revise payments to hospitals in the affected counties as soon as data were available. Now that the affected counties have been identified, hospitals in the 14 counties identified above will be offered the opportunity to elect this designation, as previously described. (For FY 2001, we are providing further information related to this election, including recalculated wage indexes, through separate instructions.)

Finally, three hospitals located in counties affected by the revised OMB standards also have been reclassified by the MGCRB. The affected hospitals are listed below. If the hospitals do not wish to be reclassified for FY 2002 based on their new designation as described above, they must follow the procedures described above for requesting that their reclassification be withdrawn.

Provider Number	1990 MSA designation	FY 2002 reclassification, MSA
34–0071	Raleigh-Durham-Chapel Hill, NC	Fayetteville, NC.
34–0124	Raleigh-Durham-Chapel Hill, NC	Fayetteville, NC.
34–0126	Rocky Mount, NC	Raleigh-Durham-Chapel Hill, NC (wage index only.)

G. Requests for Wage Data Corrections

As stated in section II.D. of this preamble, the data file used to construct the proposed wage index includes FY 1998 data submitted to HCFA as of mid-February 2001. In a memorandum dated February 5, 2001, we instructed all Medicare intermediaries to inform the prospective payment hospitals they service of the availability of the wage data file and the process and timeframe for requesting revisions. The wage data file was made available on February 13, 2001 through the Internet at HCFA's home page (http://www.hcfa.gov). We also instructed the intermediaries to advise hospitals of the availability of these data either through their representative hospital organizations or directly from HCFA. Additional details on ordering this data file are discussed in section IX.A of this preamble, ''Requests for Data from the Public.''

In addition, Table 2 in the Addendum to this proposed rule contains each hospital's adjusted average hourly wage used to construct the proposed wage index values for the past 3 years, including the FY 1998 data used to construct the proposed FY 2002 wage index. It should be noted that the hospital average hourly wages shown in Table 2 do not reflect any changes made to a hospital's data after mid-February 2001. Changes approved by a hospital's fiscal intermediary and forwarded to HCFA by April 9, 2001, will be reflected on the final public use wage data file scheduled to be made available on or about May 4, 2001.

We believe hospitals have sufficient time to ensure the accuracy of their FY 1998 wage data. Moreover, the ultimate responsibility for accurately completing the cost report rests with the hospital, which must attest to the accuracy of the data at the time the cost report is filed. Hospitals should know what wage data were submitted on their cost reports. Additionally, they are notified of any changes to their data as a result of their intermediary's review. However, if a hospital believed that its FY 1998 wage data were incorrectly reported, the hospital was to submit corrections along with complete, detailed supporting documentation to its intermediary by March 9, 2001. Hospitals were notified of this deadline, and of all other possible deadlines and requirements, through written communications from their fiscal intermediaries in early February 2001.

After reviewing requested changes submitted by hospitals, intermediaries transmitted any revised cost reports to HCFA and forwarded a copy of the revised Worksheet S–3, Parts II and III to the hospitals. In addition, fiscal intermediaries were to notify hospitals of the changes or the reasons that changes were not accepted. This procedure ensures that hospitals have every opportunity to verify the data that will be used to construct their wage index values. We believe that fiscal intermediaries are generally in the best position to make evaluations regarding the appropriateness of a particular cost and whether it should be included in the wage index data. However, if a hospital disagrees with the intermediary's resolution of a requested change, the hospital may contact HCFA in an effort to resolve policy disputes. We note that the April 9, 2001 deadline also applies to these requested changes. We will not consider factual determinations at this time, as these

should have been resolved earlier in the process.

Any wage data corrections to be reflected in the final wage index must have been reviewed and verified by the intermediary and transmitted to HCFA on or before April 9, 2001. (The deadline for hospitals to request changes from their fiscal intermediaries was March 9, 2001.) These deadlines are necessary to allow sufficient time to review and process the data so that the final wage index calculation can be completed for development of the final prospective payment rates to be published by August 1, 2001.

We have created the process described above to resolve all substantive wage data correction disputes before we finalize the wage data for the FY 2002 payment rates. Accordingly, hospitals that do not meet the procedural deadlines set forth above will not be afforded a later opportunity to submit wage data corrections or to dispute the intermediary's decision with respect to requested changes. Specifically, our policy is that hospitals that do not meet the procedural deadlines set forth above will not be permitted to later challenge, before the Provider Reimbursement Review Board, HCFA's failure to make a requested data revision (See *W. A. Foote Memorial Hospital* v. *Shalala,* No. 99–CV–75202–DT (E.D. Mich. 2001)).

The final wage data public use file will be released by May 4, 2001. Hospitals should examine both Table 2 of this proposed rule and the May 4 final public use wage data file (which reflects revisions to the data used to calculate the values in Table 2) to verify the data HCFA is using to calculate the wage index. Hospitals will have until June 4, 2001, to submit requests to correct errors in the final wage data due to data entry or tabulation errors by the intermediary or HCFA. The correction requests that will be considered at that time will be limited to errors in the entry or tabulation of the final wage data that the hospital could not have known about before the release of the final wage data public use file.

As with the file made available in February 2001, HCFA will make the final wage data file released in May 2001 available to hospital associations and the public on the Internet. However, the May 2001 file will be made available solely for the limited purpose of identifying any potential errors made by HCFA or the intermediary in the entry of the final wage data that result from the correction process described above (with the March 9 deadline). Hospitals are encouraged to review their hospital wage data promptly after the release of the final file. Data presented at this time cannot be used by hospitals to initiate new wage data correction requests.

If, after reviewing the final file, a hospital believes that its wage data are incorrect due to a fiscal intermediary or HCFA error in the entry or tabulation of the final wage data, it should send a letter to both its fiscal intermediary and HCFA. The letters should outline why the hospital believes an error exists and provide all supporting information, including dates. These requests must be *received* by HCFA and the intermediaries no later than June 4, 2001. Requests mailed to HCFA should be sent to: Health Care Financing Administration; Center for Health Plans and Providers; Attention: Wage Index Team, Division of Acute Care; C4–07–07; 7500 Security Boulevard; Baltimore, MD 21244–1850. Each request must also be sent to the hospital's fiscal intermediary. The intermediary will review requests upon receipt and contact HCFA immediately to discuss its findings.

At this point in the process, that is, between release of the May 2001 wage index file and June 4, 2001, changes to the hospital wage data will only be made in those very limited situations involving an error by the intermediary or HCFA that the hospital could not have known about before its review of the final wage data file. Specifically, neither the intermediary nor HCFA will accept the following types of requests at this stage of the process:

- Requests for wage data corrections that were submitted too late to be included in the data transmitted to HCFA on or before April 9, 2001.
- Requests for correction of errors that were not, but could have been, identified during the hospital's review of the February 2001 wage data file.
- Requests to revisit factual determinations or policy interpretations made by the intermediary or HCFA during the wage data correction process.

Verified corrections to the wage index received timely (that is, by June 4, 2001) will be incorporated into the final wage index to be published by August 1, 2001 and effective October 1, 2001.

Again, we believe the wage data correction process described above provides hospitals with sufficient opportunity to bring errors in their wage data to the intermediary's attention. Moreover, because hospitals will have access to the final wage data by early May 2001, they will have the opportunity to detect any data entry or tabulation errors made by the intermediary or HCFA before the development and publication of the FY 2002 wage index by August 1, 2001 and the implementation of the FY 2002 wage index on October 1, 2001. If hospitals avail themselves of this opportunity, the wage index implemented on October 1 should be accurate. Nevertheless, in the event that errors are identified after that date, we retain the right to make midyear changes to the wage index under very limited circumstances.

Specifically, in accordance with § 412.63(w)(2), we may make midyear corrections to the wage index only in those limited circumstances in which a hospital can show (1) That the intermediary or HCFA made an error in tabulating its data; and (2) that the hospital could not have known about the error, or did not have an opportunity to correct the error, before the beginning of FY 2002 (that is, by the June 4, 2001 deadline). As indicated earlier, since a hospital will have the opportunity to verify its data, and the intermediary will notify the hospital of any changes, we do not foresee any specific circumstances under which midyear corrections would be necessary. However, should a midyear correction be necessary, the wage index-change for the affected area will be effective prospectively from the date the correction is made.

H. Modification of the Process and Timetable for Updating the Wage Index

Although the wage data correction process described above has proven successful in the past for ensuring that the wage data used each year to calculate the wage indexes are generally reliable and accurate, we are concerned about the growing volume of wage data revisions initiated by hospitals during February and the first week of March. We first discussed this issue in the FY 1998 proposed rule (62 FR 29918). At that time, we noted that, in developing the FY 1997 wage index, the wage data were revised between the proposed and final rules for more than 13 percent of the hospitals (approximately 700 of 5,200). Last year, in developing the FY 2001 wage index, the wage data were revised between the proposed and final rules for more than 32 percent of the hospitals (1,605 of 4,950).

Since hospitals are expected to submit complete and accurate cost report data, and intermediaries review and request hospitals to correct problematic wage data before the data are submitted to HCFA in mid-November, we believe there should be limited revisions at this stage of the process. We remind the hospital community that the primary purpose of this file is to allow hospitals to verify that we have their correct data on file. However, according to information received from the

intermediaries, these late revisions are frequently due to hospitals' lack of responsiveness in providing sufficient information to the intermediaries during the desk reviews (that is, during the intermediary's review of the hospital's cost report).

We are proposing two changes to the wage index development process and timetable beginning with the FY 2003 wage index. We believe these changes will encourage earlier submissions of wage data revisions by hospitals and will allow intermediaries more time to address the heavy volume of revisions requested after the intermediaries have completed their desk reviews of these data. First, we are proposing to release the preliminary wage data file by early January rather than early February. As with the current preliminary file, the January file would include desk reviewed wage data that intermediaries submitted to HCFA by November of the previous year and any timely revisions HCFA received from intermediaries prior to release of the January file. Hospitals would be allowed until early February to submit requests for wage data revisions to their intermediaries. Second, intermediaries would be allowed approximately 8 weeks from the hospitals' deadline for submitting revision requests (that is, until early March) to review and transmit revised wage data to HCFA.

We believe this proposed revised schedule will improve the quality of the wage index by allowing intermediaries more time to sufficiently review wage data revisions before the data are submitted to HCFA. Further, we believe the proposed revised process will encourage hospitals to submit revisions earlier, so the proposed wage index, from which hospitals base geographic reclassification decisions, is more accurate.

IV. Other Decisions and Proposed Changes to the Prospective Payment System for Inpatient Operating Costs and Graduate Medical Education Costs

A. Sole Community Hospitals (SCHs) (§§ 412.63, 412.71, 412.72, 412.73, 412.75, 412.77, and 412.92)

For the benefit of the reader, in this proposed rule, we are discussing and seeking to clarify many of the rules and policies governing SCHs because of the legislative changes that have occurred in recent years. It has been several years since the SCH criteria have been published in one location. Rather than continue to refer to various **Federal Register** documents and sections of the Code of Federal Regulations, we are publishing a detailed discussion of these policies, proposing to make further changes to incorporate the provisions of sections 213, 302, 303, 304, and 311 of Public Law 106–554, and proposing to clarify other related policies.

Under the hospital inpatient prospective payment system, special payment protections are provided to an SCH. Section 1886(d)(5)(D)(iii) of the Act defines an SCH as a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, absence of other like hospitals (as determined by the Secretary), or historical designation by the Secretary as an Essential Access Community Hospital (EACH), is the sole source of inpatient hospital services reasonably available to Medicare beneficiaries. The regulations that set forth the criteria that a hospital must meet to be classified as an SCH are at § 412.92. To be classified as an SCH, a hospital must either have been designated as an SCH prior to the beginning of the prospective payment system on October 1, 1983, and must be located more than 35 miles from other like hospitals, or the hospital must be located in a rural area and meet one of the following requirements:

- It is located more than 35 miles from other like hospitals.
- It is located between 25 and 35 miles from other like hospitals, and it—
  - —Serves at least 75 percent of all inpatients, or 75 percent of Medicare beneficiary inpatients, within a 35-mile radius or, if larger, within its service area; or
  - —Has fewer than 50 beds and would qualify on the basis of serving 75 percent of its area's inpatients except that some patients seek specialized care unavailable at the hospital.
- It is located between 15 and 25 miles from other like hospitals, and because of local topography or extreme weather conditions, the other like hospitals are inaccessible for at least 30 days in each of 2 out of 3 years.
- The travel time between the hospital and the nearest like hospital is at least 45 minutes because of distance, posted speed limits, and predictable weather conditions.
- Effective with hospital cost reporting periods beginning on or after April 1, 1990, section 1886(d)(5)(D)(i) of the Act, as amended by section 6003(e) of Public Law 101–239, provides that SCHs are paid based on whichever of the following rates yields the greatest aggregate payment:
- The Federal rate applicable to the hospital.
- The updated hospital-specific rate based on FY 1982 costs per discharge.
- The updated hospital-specific rate based on FY 1987 costs per discharge.

Effective with hospital cost reporting periods beginning on or after October 1, 2000, section 1886(b)(3)(I)(i) of the Act, as added by section 405 of Public Law 106–113 and amended by section 213 of Public Law 106–554, provides for other options, in addition to the three bulleted options in the above paragraph, for determining which rate would yield the greatest aggregate payment. For discharges for FY 2001 through FY 2003, these additional optional rates are—

- A phase-in blended rate of the updated hospital-specific rate based on FY 1982 costs per discharge and an FY 1996 hospital-specific rate; or
- A phase-in blended rate of the updated hospital-specific rate based on FY 1987 costs per discharge and an FY 1996 hospital-specific rate.

For discharges beginning in FY 2004, the additional optional rate would be 100 percent of the FY 1996 hospital-specific rate.

For each cost reporting period, the fiscal intermediary determines which of the payment options will yield the highest rate of payment. Payments are automatically made at the highest rate using the best data available at the time the fiscal intermediary makes the determination. However, it may not be possible for the fiscal intermediary to determine in advance precisely which of the rates will yield the highest payment by year's end. In many instances, it is not possible to forecast the update factor for the Federal rates, outlier payments, the amount of the DSH adjustment, or the IME adjustment, all of which are applicable only to payments based on the Federal rate. The fiscal intermediary makes a final adjustment at the close of the cost reporting period to determine precisely which of the payment rates would yield the highest payment to the hospital.

If a hospital disagrees with the fiscal intermediary's determination regarding the final amount of program payment to which it is entitled, it has the right to appeal the fiscal intermediary's decision in accordance with the procedures set forth in Subpart R of Part 405, which concern provider payment determinations and appeals.

In calculating a hospital-specific rate for an SCH based on its FY 1996 cost reporting period, we will, to the extent possible, use the same methodology that we used to calculate the hospital-specific rate based on either the FY 1982 or FY 1987 cost reporting period. That

methodology is set forth in §§ 412.71, 412.72, 412.73, 412.75 and 412.77.

• If a hospital has a cost reporting period ending in FY 1982, it will be paid a hospital-specific rate based on its FY 1982 costs; or a hospital-specific rate based on its FY 1987 costs; or a hospital-specific rate based on its FY 1996 costs (which, until FY 2004, would be a blend of the greater of the FY 1982 or FY 1987 costs and the FY 1996 costs); or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in FY 1982, it will be paid a hospital-specific rate based on its FY 1987 costs; or a hospital-specific rate based on its FY 1996 costs (which, until FY 2004, would be a blend of its FY 1987 costs and FY 1996 costs); or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in either FY 1982 or FY 1987, it will be paid based on its FY 1996 costs; or it will be paid based on the Federal rate.

• If a hospital has no cost reporting period ending in FY 1982, FY 1987, or FY 1996, it cannot be paid based on a hospital-specific rate; it will be paid based on the Federal rate.

• If a hospital was operating during any or all of FY 1982, FY 1987, or FY 1996, but, for some reason, the cost report records are no longer available, the hospital will be treated as if it had no cost report for the applicable period. The hospital will not be allowed to substitute any other base period for the FY 1982, FY 1987, or FY 1996 base period.

For each SCH, the fiscal intermediary will calculate a hospital-specific rate based on the hospital's FY 1982, FY 1987, or FY 1996 cost report as follows:

• Determine the hospital's total allowable Medicare inpatient operating cost, as stated on the cost report.

• Divide the total Medicare operating cost by the number of Medicare discharges (without adjusting for transfers) in the cost reporting period to determine the base period cost per case.

• In order to take into consideration the hospital's individual case-mix, the base year cost per case is divided by the hospital's case-mix index applicable to the cost reporting period. This step is necessary to adjust the hospital's base period cost for case mix. This is done to remove the effects of case mix from the base period costs per case. Payments using these base period costs are then adjusted to reflect the actual case mix during the payment year. A hospital's case mix is computed based on its Medicare patient discharges subject to DRG-based payment.

The fiscal intermediary will inform each SCH of its hospital-specific rate based on its applicable cost reporting period within 180 days after the start of its cost reporting period.

An SCH is also eligible for a payment adjustment if, for reasons beyond its control, it experiences a decline in volume of greater than 5 percent compared to its preceding cost reporting period. This adjustment is also available to hospitals that could qualify as SCHs but choose not to be paid as SCHs; that is, hospitals that qualify and successfully apply to be designated as SCHs but continue to receive payments based on the Federal rate. In addition, section 6003(c)(1) of Public Law 101–239 deleted the sunset date on the 5-percent volume decline adjustment, thus allowing SCHs to receive the adjustment indefinitely. The sunset provision was included under section 1886(d)(5)(C)(ii) of the Act. (Section 6003(c)(1) of Public Law 101–239 amended that provision and redesignated it as section 1886(d)(5)(D) of the Act.)

In the September 1, 1983, issue of the **Federal Register** (48 FR 39781), we stated that any hospital designated as an SCH would retain that status until it experienced a change in circumstances. Section 6003(e)(3) of Public Law 101–239 specifically stated that any hospital classified as an SCH as of the date of enactment of Public Law 101–239 (December 19, 1989), will retain its SCH status even if the hospital did not meet the criteria established under section 6003(e)(1) of that law. These hospitals are the ''grandfathered'' SCH hospitals. Therefore, we have continued to allow hospitals designated as SCHs prior to December 19, 1989, to be ''grandfathered'' under current criteria.

In the June 4, 1991, **Federal Register,** we stated that a hospital's special status as an SCH would not be retained in light of the hospital's geographic reclassification for purposes of the standardized amount. In the event the hospital's reclassification ceases, it must reapply for special status and must meet all of the applicable qualifying criteria in effect at the time it seeks requalification (56 FR 25482). However, in the event a ''grandfathered'' SCH was successfully reclassified, it would be reinstated as an SCH if its reclassification ceased.

Section 401(a) of Public Law 106–113 established that any subsection (d) hospital (section 1886(d) of the Act) located in an urban area may be redesignated as being located in a rural area if the hospital meets one of several criteria established by the legislation. One of these criteria is that the hospital could qualify as an SCH if the hospital were located in a rural area. Under this provision, an urban hospital that may have been ''grandfathered'' as an SCH could now qualify and receive payment as an SCH if it met the criteria of a rural SCH. Given this extension of SCH eligibility, we no longer believe it is necessary to extend special protection to ''grandfathered'' SCHs that successfully apply for geographic reclassification through the MGCRB for the standardized amount after their MGCRB reclassification ends. This circumstance falls under the provisions of §§ 412.92(b)(3) and (b)(5), which state that an approved classification as an SCH remains in effect without need for reapproval unless there is a change in the circumstances under which the classification was approved. We believe that a successful reclassification by the MGCRB fits the definition of a change in circumstances.

Because some hospitals may not have understood the effect reclassification would have on their special status, under existing § 412.273(a) we are permitting affected hospitals the option to withdraw their applications for reclassification for FY 2002, even if the MGCRB has issued a decision, by submitting a withdrawal request to the MGCRB within 45 days of publication of this proposed rule. Finally, just as a competing hospital that closes leaves an opportunity for an existing hospital to qualify as an SCH, a new hospital that opens in an area with an existing hospital designated as an SCH endangers the SCH status of the existing hospital.

As of October 1, 1997, no designations of hospitals as EACHs can be made. The EACHs designated by HCFA before October 1, 1997, will continue to be paid as SCHs for as long as they comply with the terms, conditions, and limitations under which they were designated as EACHs.

Under § 412.92(b)(2), we define the effective dates for several situations in which a hospital gains or gives up SCH status. First, SCH status and the associated payment adjustment is effective 30 days after HCFA's written notification to the SCH. Thus, 30 days after the issuance of HCFA's notice of approval, the hospital is considered to be an SCH and the payment adjustment is applied to discharges occurring on or after that date.

Second, § 412.92(b)(4)(ii) defines the effective date when a hospital chooses to give up its SCH status. Our policy has always been that an SCH can elect to give up its SCH status at any time by submitting a written request to the appropriate HCFA regional office

through its fiscal intermediary. The change to fully national rates becomes effective no later than 30 days after the hospital submits its request. We believe that the ''no later than 30 days'' policy for the effective date for cancelling SCH status is in keeping with the prospective nature of the prospective payment system. In addition, the 30-day timeframe to give up SCH status provides the fiscal intermediaries with enough time to alter their automated payment systems prospectively, thus avoiding expensive and time-consuming reprocessing of claims. The variable timeframe of ''no later than 30 days from the date of the hospital's request'' also permits the regional office, the fiscal intermediary, and the hospital to select a mutually agreeable date, for example, at the end of a month, to facilitate the change in SCH status. We expect that hospitals will anticipate when they wish to give up SCH status and to submit their requests in sufficient time to permit the 30-day period for making the change.

In addition, § 412.92(b)(2)(ii) defines the effective date of SCH status in the situation where a final and nonappealable administrative or judicial decision reverses HCFA's denial of SCH status to a hospital. In this situation, if the hospital's application was submitted on or after October 1, 1983, the effective date will be 30 days after the date of HCFA's original written notification of denial.

Under § 412.92(b)(2)(iii), we define retroactive approval of SCH status. If a hospital is granted retroactive approval of SCH status by a final and nonappealable court order or an administrative decision under subpart R of Part 405 of the regulations, and it wishes its SCH status terminated prior to the current date (that is, it wishes to be paid as an SCH for a time-limited period, all of which is in the past), it must submit written notice to the HCFA regional office through its fiscal intermediary within 90 days of the court order or the administrative decision. This written notice must clearly state that, although SCH status was granted retroactively by the court order or by the administrative decision, the hospital wants this status terminated as of a specific date. If written notice is not received within 90 days of the court order or the administrative decision, SCH status will continue. Written requests to terminate SCH status that are received subsequent to the 90-day period will be effective no later than 30 days after the request is submitted, as discussed above.

Under § 412.92(c)(1), we define mileage. We believe that mileage should continue to be measured by the shortest route over improved roads maintained by any local, State, or Federal Government entity for public use. We consider improved roads to include the paved surface up to the front entrance of the hospital because this portion of the distance is utilized by the public to access the hospital. This definition provides consistency with the interpretation of the MGCRB when considering hospital reclassification applications. The MGCRB measures the distance between the hospital and the county line of the area to which it seeks reclassification beginning with the paved area outside the front entrance of the hospital. This provides a consistent, national definition that is easily recognizable for each hospital. Finally, rounding of mileage is not permissible. this is also consistent with the MGCRB definition of mileage (56 FR 25483). We are proposing to revise the definition of ''miles'' under § 412.92(c)(1) to state that an improved road includes the paved surface up to the front entrance of the hospital.

Under § 412.92(c)(2), we define ''like'' hospital. We consider like hospitals to be those hospitals furnishing short-term acute care. That is, a hospital may not qualify for an SCH classification on the grounds that neighboring hospitals offer specialty services, thereby seeking to exclude close-by competitors as like hospitals, in order to meet the mileage criteria by measuring to a like hospital that is located further away. For example, we believe that competing hospitals within a given area may each have their own specialty services, while all the facilities continue to be considered short-term acute care hospitals. We note that under § 412.92(a)(1)(ii), a hospital with fewer than 50 beds may qualify for SCH status under a special provision if patients that it would normally serve are seeking care elsewhere due to the unavailability of specialty services. This means that, if a hospital can prove that the patients from its service area are seeking specialty services elsewhere (such as, among others, heart surgery, transplants, and burn care), rather than routine care, and, because of that fact, that it otherwise would have met the criteria of section § 412.92(a)(1)(i), it can qualify as an SCH.

We note that § 412.92(b)(1)(iii)(A) retains an outdated reference to ''hospitals located within a 50 mile radius of the hospital.'' With the issuance of the September 1, 1989 **Federal Register** (54 FR 36481, 36482), the 50 mile radius was determined to be unreasonable and all references should have been changed to 35 miles in accordance with § 412.92(a)(1)(i). We are proposing to revise the reference to ''a 50 mile radius'' in § 412.92(b)(1)(iii)(A) to read ''a 35 mile radius''.

We note that the travel time and weather conditions criteria set forth in § 412.92(a)(3) were discussed in detail in the September 4, 1990 **Federal Register** (55 FR 36050 through 36055 and 36162 through 36163).

Under § 412.92(a)(1)(i) and (b)(1)(ii), we define the market area analysis criteria used to determine SCH status. There are several points concerning these requests for SCH status that we would like to clarify in this proposed rule. First, a hospital seeking an SCH designation based on these criteria must make its initial request to the fiscal intermediary with all the appropriate documents as will be discussed below (§ 412.92(b)(1)(i)). The fiscal intermediary will make a recommendation on the request, based on receipt of all the appropriate documentation and its own investigation and analysis, and that recommendation will be forwarded to the HCFA regional office for another level of review and final approval or disapproval. The fiscal intermediary would forward its recommendation to the HCFA regional office located in the hospital's area as opposed to the fiscal intermediary's area, if there is a difference in these areas. As discussed above, an approval of the request for SCH status will be effective 30 days after HCFA issues the approval letter. If a determination on the request requires the use of data that are available at HCFA central office only, upon receipt of the fiscal intermediary's recommendation, the HCFA regional office will forward the request and the fiscal intermediary's recommendation to the appropriate contact at HCFA central office where the determination will be made.

Second, a hospital must provide patient origin data (the number of patients from each zip code from which the hospital draws inpatients) for all inpatient discharges to document the boundaries of its service area (§ 412.92(b)(1)(ii)(A)). Or, the hospital can request that HCFA develop patient origin data to define its service area based on the number of patients from each zip code from which the hospital draws Medicare Part A inpatients (§ 412.92(b)(1)(iii)). Then, the lowest number of zip codes in descending percentage order of Medicare inpatients that meets the 75-percent threshold will be used to represent the hospital's service area. We note that hospitals cannot substitute zip codes elsewhere

on the list in order to manipulate the service area. See (*Howard Young Medical Center, Inc.* v. *Shalala,* 207 F.3d 437 (7th Cir. 2000).)

Third, the hospital must provide patient origin data from all other hospitals located within a 35-mile radius of it or, if larger, within its service area, to document that no more than 25 percent of either all of the population or the Medicare beneficiaries residing in the hospital's service area and hospitalized for inpatient care were admitted to other like hospitals for care (§ 412.92(b)(1)(ii)(B)). Again, HCFA central office can develop patient origin data for other hospitals within the requesting hospital's service area if the hospital is requesting SCH status based on an examination of Medicare Part A inpatient utilization. In either case, the requesting hospital is required to submit a comprehensive list of hospitals located within a 35-mile radius or, if larger, within its service area. This list will be checked by both the fiscal intermediary and HCFA. Again, a requesting hospital cannot argue that a competing hospital should be excluded from the service area based on the existence of specialty services at that hospital if both hospitals are short-term acute care facilities. Distances between all reported hospitals will be checked by both the fiscal intermediary and HCFA, through electronic geographic mapping services (such as Yahoo or Mapquest) or by physically driving the distance involved.

In addition, data will be analyzed based on the year for which the hospital requests SCH status. Subsequent hospital mergers or terminations will not be taken into consideration in processing the request. For example, if a hospital requests SCH status using data for FY 1999, and that data show that there is a competing hospital in existence that subsequently closed its doors in FY 2000, the data will be analyzed with the terminated hospital in existence, unless the hospital seeking SCH status applies using later data, such as FY 2001. This principle is consistent with how we analyze wage index data. If a terminated hospital has a viable cost report for the year of wage data that is being analyzed to produce the wage index, its data are included as part of the computation.

B. Rural Referral Centers (§ 412.96)

Under the authority of section 1886(d)(5)(C)(i) of the Act, the regulations at § 412.96 set forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a rural referral center. For discharges occurring before October 1, 1994, rural referral centers received the benefit of payment based on the other urban amount rather than the rural standardized amount. Although the other urban and rural standardized amounts were the same for discharges beginning with that date, rural referral centers would continue to receive special treatment under both the disproportionate share hospital (DSH) payment adjustment and the criteria for geographic reclassification.

Section 401 of Public Law 106–113 amended section 1886(d)(8) of the Act by adding subparagraph (E), which creates a mechanism, separate and apart from the MGCRB, permitting an urban hospital to apply to the Secretary to be treated as being located in the rural area of the State in which the hospital is located. The statute directs the Secretary to treat a qualifying hospital as being located in the rural area for purposes of provisions under section 1886(d) of the Act. Congress clearly intended hospitals that become rural under section 1886(d)(8)(E) of the Act to receive some benefit as a result. In addition, one of the criteria under section 1886(d)(8)(E) of the Act is that the hospital would qualify as an SCH or a rural referral center if it were located in a rural area. An SCH would be eligible to be paid on the basis of the higher of its hospital-specific rate or the Federal rate. On the other hand, the only benefit under section 1886(d) of the Act for an urban hospital to become a rural referral center would be waiver of the proximity requirements that are otherwise applicable under the MGCRB process, as set forth in § 412.230(a)(3)(i).

When we implemented section 401 of Public Law 106–113 in the August 1, 2000 final rule (65 FR 47089), we stated that we believed Congress contemplated that hospitals might seek to be reclassified as rural under section 1886(d)(8)(E) of the Act in order to become rural referral centers so that the hospitals would be exempt from the MGCRB proximity requirement and could be reclassified by the MGCRB to another urban area. Therefore, in that final rule we sought a policy approach that would appropriately address our concern that these urban to rural redesignations not be utilized inappropriately, and that would benefit hospitals seeking to reclassify under the MGCRB process by achieving rural referral center status. (We became aware of several specific hospitals that were rural referral centers for FY 1991, but subsequently lost their status when the county in which they were located became urban, and had expressed their wish to be redesignated as a rural referral center in order to be eligible to reclassify.) Accordingly, in light of section 1886(d)(8)(E) of the Act and the language in the accompanying Conference Report, effective as of October 1, 2000, hospitals located in what is now an urban area, if they were ever a rural referral center, were reinstated to rural referral center status.

In addition, as discussed in 62 FR 45999 and 63 FR 26317, under section 4202 of Public Law 105–33, a hospital that was classified as a rural referral center for FY 1991 is to be classified as a rural referral center for FY 1998 and later years so long as that hospital continued to be located in a rural area and did not voluntarily terminate its rural referral center status. Otherwise, a hospital seeking rural referral center status must satisfy applicable criteria. One of the criteria under which a hospital may qualify as a rural referral center is to have 275 or more beds available for use. A rural hospital that does not meet the bed size requirement can qualify as a rural referral center if the hospital meets two mandatory prerequisites (specifying a minimum case-mix index and a minimum number of discharges) and at least one of three optional criteria (relating to specialty composition of medical staff, source of inpatients, or referral volume). With respect to the two mandatory prerequisites, a hospital may be classified as a rural referral center if its—

- Case-mix index is at least equal to the lower of the median case-mix index for urban hospitals in its census region, excluding hospitals with approved teaching programs, or the median case-mix index for all urban hospitals nationally; and
- Number of discharges is at least 5,000 per year, or if fewer, the median number of discharges for urban hospitals in the census region in which the hospital is located. (The number of discharges criterion for an osteopathic hospital is at least 3,000 discharges per year.)

1. Case-Mix Index

Section 412.96(c)(1) provides that HCFA will establish updated national and regional case-mix index values in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. The methodology we use to determine the proposed national and regional case-mix index values is set forth in regulations at § 412.96(c)(1)(ii). The proposed national case-mix index value includes all urban hospitals nationwide, and the proposed regional values are the median values of urban hospitals within each census region, excluding those

with approved teaching programs (that is, those hospitals receiving indirect medical education payments as provided in § 412.105). These values are based on discharges occurring during FY 1999 (October 1, 1998 through September 30, 1999) and include bills posted to HCFA's records through December 1999.

We are proposing that, in addition to meeting other criteria, hospitals with fewer than 275 beds, if they are to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have a case-mix index value for FY 2000 that is at least—

- 1.3286; or
- The median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.105) calculated by HCFA for the census region in which the hospital is located.

The median case-mix values by region are set forth in the following table:

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT)	1.2377
2. Middle Atlantic (PA, NJ, NY)	1.2305
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	1.3055
4. East North Central (IL, IN, MI, OH, WI)	1.2613
5. East South Central (AL, KY, MS, TN)	1.2537
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	1.1653
7. West South Central (AR, LA, OK, TX)	1.2484
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	1.3286
9. Pacific (AK, CA, HI, OR, WA)	1.2693

The preceding numbers will be revised in the final rule to the extent required to reflect the updated FY 2000 MedPAR file, which will contain data from additional bills received through March 31, 2001.

Hospitals seeking to qualify as rural referral centers or those wishing to know how their case-mix index value compares to the criteria should obtain hospital-specific case-mix values from their fiscal intermediaries. Data are available on the Provider Statistical and Reimbursement (PS&R) System. In keeping with our policy on discharges, these case-mix index values are computed based on all Medicare patient discharges subject to DRG-based payment.

2. Discharges

Section 412.96(c)(2)(i) provides that HCFA will set forth the national and regional numbers of discharges in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. As specified in section 1886(d)(5)(C)(ii) of the Act, the national standard is set at 5,000 discharges. We are proposing to update the regional standards based on discharges for urban hospitals' cost reporting periods that began during FY 1999 (that is, October 1, 1998 through September 30, 1999). That is the latest year for which we have complete discharge data available.

Therefore, we are proposing that, in addition to meeting other criteria, a hospital, if it is to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have as the number of discharges for its cost reporting period that began during FY 1999 a figure that is at least—

- 5,000; or
- The median number of discharges for urban hospitals in the census region in which the hospital is located, as indicated in the following table:

Region	Number of discharges
1. New England (CT, ME, MA, NH, RI, VT)	7083
2. Middle Atlantic (PA, NJ, NY)	8371
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	8202
4. East North Central (IL, IN, MI, OH, WI)	7430
5. East South Central (AL, KY, MS, TN)	6505
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	4708
7. West South Central (AR, LA, OK, TX)	4911
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	8287
9. Pacific (AK, CA, HI, OR, WA)	7001

These numbers will be revised in the final rule based on the latest FY 1999 cost report data.

We reiterate that an osteopathic hospital, if it is to qualify for rural referral center status for cost reporting periods beginning on or after October 1, 2001, must have at least 3,000 discharges for its cost reporting period that began during FY 2000.

C. Indirect Medical Education (IME) Adjustment (§ 412.105)

1. IME Adjustment Factor Formula Multiplier (Section 302 of Public Law 106–554 and § 412.105(d)(3))

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved graduate medical education (GME) program receive an additional payment to reflect the higher indirect operating costs associated with GME. The regulations regarding the calculation of this additional payment, known as the indirect medical education (IME) adjustment, are located at § 412.105. The additional payment is based in part on the applicable IME adjustment factor. The IME adjustment factor is calculated using a hospital's ratio of residents to beds, which is represented as r, and a multiplier, which is represented as c, in the following equation: $c \times [(1 + r)^{.405} - 1]$. The formula is traditionally described in terms of a certain percentage increase in

payment for every 10-percent increase in the resident-to-bed ratio.

Section 302 of Public Law 106–554 amended section 1886(d)(5)(B) of the Act to modify the transition for the IME formula multiplier, or c, that was first established by Public Law 105–33 and revised by Public Law 106–113.

Section 302(a) of Public Law 106–554 provides that, for discharges occurring during FY 2002, the formula multiplier is 1.6. For discharges occurring during FY 2003 and thereafter, the formula multiplier is 1.35. (Section 302(b) of Public Law 106–554 provides for a special payment rule which states that, for discharges occurring on or after April 1, 2001 and before October 1, 2001, IME payments are to be made if ''c'' equalled 1.66 rather than 1.54. We are issuing a separate interim final rule with comment period (HCFA–1178–IFC) to include this change for payments in FY 2001.) The multiplier of 1.6 for FY 2002 represents a 6.5-percent increase for every 10-percent increase in the resident-to-bed ratio. The multiplier for FY 2003 and thereafter (1.35) represents a 5.5-percent increase for every 10-percent increase in the resident-to-bed ratio.

We are proposing to revise § 412.105(d)(3)(vi) to reflect the change in the formula multiplier for FY 2002 to 1.6 as made by section 302(a) of Public Law 106–554 for discharges occurring during FY 2002. We also are proposing to add § 412.105(d)(3)(vii) to incorporate the formula multiplier of 1.35 for discharges occurring on or after October 1, 2002.

2. Resident-to-Bed Ratio Cap (§ 412.105(a)(1))

It has come to our attention that there is some misunderstanding about § 412.105(a)(1) regarding the determination of the resident-to-bed ratio that is used in calculating the IME adjustment. Section 4621(b)(1) of Public Law 105–33 amended section 1886(d)(5)(B) of the Act by adding a new clause (vi) to provide that, effective for cost reporting periods beginning on or after October 1, 1997, the resident-to-bed ratio may not exceed the ratio calculated during the prior cost reporting period (after accounting for the cap on the hospital's number of full-time equivalent (FTE) residents). We implemented this policy in the August 29, 1997 final rule (62 FR 46003) and the May 12, 1998 final rule (63 FR 26323) under regulations at § 412.105(a)(1). Existing § 412.105(a)(1) specifies that ''[e]xcept for the special circumstances for affiliated groups and new programs described in paragraphs (f)(1)(vi) and (f)(1)(vii) of this section, for a hospital's cost reporting periods beginning on or after October 1, 1997, this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period.'' We are proposing to clarify § 412.105(a)(1) to add a provision that this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period *after accounting for the cap on the number of FTE residents.*

In general, the resident-to-bed ratio from the prior cost reporting period, which is to be used as the cap on the resident-to-bed ratio for the current payment cost reporting period, should only include an FTE count that is subject to the FTE cap on the number of allopathic and osteopathic residents, but is *not* subject to the rolling average. (An explanation of rolling average appears in section IV.G.3. of this preamble.)

The following illustrates the steps for determining the resident-to-bed ratio for the current payment year cost reporting period and the cap on the resident-to-bed ratio:

Current payment year cost reporting period resident-to-bed ratio:

Step 1. Determine the hospital's number of FTE residents in the current payment year cost reporting period.

Step 2. Compare the number of FTEs from step 1 to the hospital's FTE cap (§ 412.105(f)(1)(iv)). If the number of FTEs from step 1 exceeds the FTE cap, replace it with the number of FTEs in the FTE cap.

Step 3. Determine the 3-year rolling average of the FTE residents using the FTEs from the current payment year cost reporting period and the prior two cost reporting periods (subject to the FTE cap in each cost reporting period). (Include podiatry and dental residents, and exclude residents in new programs in accordance with § 412.105(f)(1)(iv) and proposed revised (f)(1)(v). Residents in new programs are added to the quotient of the rolling average.)

Step 4. Determine the hospital's number of beds (see § 412.105(b)) in the current payment year cost reporting period.

Step 5. Determine the ratio of the number of FTEs from step 3 to the number of beds from step 4. The lower of this resident-to-bed ratio or the resident-to-bed ratio cap (calculated below) from the immediately preceding cost reporting period is used to calculate the hospital's IME adjustment factor for the current payment year cost reporting period.

Resident-to-bed ratio cap:

Step 1. Determine the hospital's number of FTE residents in its cost reporting period that immediately precedes the current payment year cost reporting period.

Step 2. Compare the number of FTEs from step 1 to the hospital's FTE cap. If the number of FTEs from step 1 exceeds the FTE cap, replace it with the number of FTEs in the FTE cap. (If there is an increase in the number of FTEs in the current payment year cost reporting period due to a new program or an affiliation agreement, these FTEs are added to FTEs in the preceding cost reporting period after comparison to the FTE cap.)

Step 3. Determine the hospital's number of beds (§ 412.105(b)) in its cost reporting period that immediately precedes the current payment year cost reporting period.

Step 4. Determine the ratio of the number of FTEs in step 2 to the number of beds in step 3. This ratio is the resident-to-bed ratio cap for the current payment year cost reporting period.

Step 5. Compare the resident-to-bed ratio cap in step 4 to the resident-to-bed ratio in the current payment year cost reporting period. The lower of the resident-to-bed ratio from the current payment year cost reporting period or the resident-to-bed ratio cap from the immediately preceding cost reporting period is used to calculate the hospital's IME adjustment factor for the current payment year cost reporting period.

We note that the resident-to-bed ratio cap is a cap on the resident-to-bed ratio calculated for all residents, including allopathic, osteopathic, dental, and podiatry residents (63 FR 26324, May 12, 1998). However, as described in existing § 412.105(a)(1), the resident-to-bed ratio cap may be adjusted to reflect an increase in the current cost reporting period's resident-to-bed ratio due to residents in a new GME program or an affiliation agreement. While this exception does not apply if the resident-to-bed ratio increases because of an increase in the number of podiatry or dentistry residents or because of a change in the number of beds, the ratio could increase after a one-year delay. An increase in the current cost reporting period's ratio (while subject to the cap on the overall number of allopathic and osteopathic residents) thereby establishes a higher cap for the following cost reporting period.

The following is an example of the application of the cap on the resident-to-bed ratio:

Example—Part 1:

• Assume Hospital A has 50 FTEs in its cost reporting period ending September 30, 1996, thereby establishing an IME FTE resident cap of 50 FTEs.

• In its cost reporting period of October 1, 1996 to September 30, 1997 (the prior year), it has 50 FTEs and 200 beds, so that its resident-to-bed ratio for this period is 50/200 = .25.

• In the (current year) cost reporting period of October 1, 1997 to September 30, 1998 (the first cost reporting period in which the FTE resident cap, the resident-to-bed ratio cap, and the rolling average apply), Hospital A has 50 FTEs and 200 beds.

• Hospital A s FTEs do not exceed its FTE cap, so its current number of FTEs (50) is used to calculate the 2-year rolling average: (50 + 50)/2 = 50.

• The result of the rolling average is used as the numerator of the resident-to-bed ratio. Thus, the resident-to-bed ratio is 50/200 = .25.

• .25 is compared to the resident-to-bed ratio from the prior period of October 1, 1996 to September 30, 1997. Because the FTE resident cap and the rolling average were not yet effective in the period of October 1, 1996 to September 30, 1997, that period's resident-to-bed ratio does not have to be recalculated to account for the FTE resident cap. Accordingly, the resident-to-bed ratio cap for October 1, 1997 to September 30, 1998 is .25.

• Because the resident-to-bed ratio does not exceed the prior year ratio, Hospital A would use the resident-to-bed ratio of .25 to determine the IME adjustment in its cost reporting period of October 1, 1997 to September 30, 1998.

Example—Part 2:

• In the (current year) cost reporting period of October 1, 1998 to September 30, 1999, Hospital A adds 1 podiatric and 1 dental resident, so that it has a total of 52 FTEs and 200 beds. Since the FTE resident cap only includes allopathic and osteopathic residents, Hospital A has not exceeded its FTE resident cap with the addition of a podiatric and a dental resident.

• Accordingly, the (now) 3-year rolling average would be (52 + 50 + 50)/3 = 50.67.

• 50.67 is used in the numerator of the current payment year's resident-to-bed ratio, so that the resident-to-bed ratio is 50.67/200 = .253.

• .253 is compared to the resident-to-bed ratio from the prior year's cost reporting period of October 1, 1997 to September 30, 1998 that is recalculated to account for the FTE resident cap. Because Hospital A did not exceed its FTE resident cap of 50 FTEs in this period of October 1, 1997 to September 30, 1998, the recalculated resident-to-bed ratio would be 50/200 = .25.

• Compare the current year resident-to-bed ratio (.253) to the resident-to-bed ratio cap (.25); .253 *does exceed* .25.

• Therefore, the resident-to-bed ratio in the period of October 1, 1998 to September 30, 1999 is capped at .25, which is to be used in calculating Hospital A's IME adjustment for October 1, 1998 to September 30, 1999.

Example—Part 3:

• In the cost reporting period of October 1, 1999 to September 30, 2000, Hospital A adds 2 internal medicine residents so that it has a total of 54 FTEs and 200 beds. While podiatric and dental residents are not included in the FTE resident cap, internal medicine residents are included. Hospital A has exceeded its IME FTE resident cap of 50 by 2 FTEs. Thus, 2 FTEs are excluded from the FTE count.

• Accordingly, the rolling average would be (52 + 52 + 50)/3 = 51.33.

• 51.33 is used in the numerator of the resident-to-bed ratio, so that the resident-to-bed ratio is 51.33/200 = .257.

• .257 is compared to the resident-to-bed ratio from October 1, 1998 to September 30, 1999 that is recalculated to only account for the FTE resident cap. The recalculated resident-to-bed ratio would be 50 allopathic or osteopathic FTEs plus 1 podiatric and 1 dental resident, which is 52/200 = .26.

• .26 is the resident-to-bed ratio cap for October 1, 1999 to September 30, 2000. .257 *does not exceed* .26.

• Therefore, the resident-to-bed ratio in the period of October 1, 1998 to September 30, 1999 is .257, which is to be used in calculating this period s IME adjustment.

If a hospital starts a new GME program, the adjustment to the resident-to-bed ratio cap applies for the period of years equal to the minimum accredited length for that type of program. (For example, for a new internal medicine program, the period of years equals 3; for a new surgery program, the period of years equals 5.) Within these program years, the number of new FTE residents in the current cost reporting period is added to the FTE resident count used in the numerator of the resident-to-bed ratio from the previous cost reporting period. The lower of the resident-to-bed ratio from the current cost reporting period or the adjusted resident-to-bed ratio from the preceding cost reporting period is used to calculate the hospital's IME adjustment for the current cost reporting period. If a hospital continues to expand its program after the period of years, the numerator of the resident-to-bed ratio from the preceding cost reporting period would not be adjusted to reflect these additional residents. However, an increase in the ratio of the current cost reporting period would establish a higher cap for the following cost reporting period. We also are proposing to add a provision that the exception for new programs described in § 412.105(f)(1)(vii) applies for the period of years equal to the minimum accredited length for that type of program.

Similarly, if a hospital increases the number of FTE residents in the current cost reporting period because of an affiliation agreement, the number of additional FTEs is added to the FTE resident count used in the numerator of the resident-to-bed ratio from the previous cost reporting period. The lower of the resident-to-bed ratio from the current cost reporting period or the adjusted resident-to-bed ratio from the preceding cost reporting period is used to calculate the hospital's IME adjustment for the current cost reporting period.

3. Conforming Changes (§ 412.105(f)(1)(ii)(C) and (f)(1)(v))

In the August 29, 1997 final rule with comment period (62 FR 46003), the May 12, 1998 final rule (63 FR 26323), and the July 31, 1998 final rule (63 FR 40986), to implement the provisions of Public Law 105–33, we set forth certain policies that affected payment for both direct and indirect GME. Some of these policies related to the FTE cap on allopathic and osteopathic residents, the rolling average, and payment for residents training in nonhospital settings. When we amended the regulations under § 413.86 for direct GME, we inadvertently did not make certain conforming changes in § 412.105 for IME. We are proposing to make the following conforming changes:

• To revise § 412.105(f)(1)(ii)(C) to specify that, effective for discharges occurring on or after October 1, 1997, the time residents spend training in a nonhospital setting in patient care activities under an approved medical residency training program may be counted towards the determination of full-time equivalency if the criteria set forth at § 413.86(f)(3) or § 413.86(f)(4), as applicable, are met.

• To revise § 412.105(f)(1)(v) to specify that residents in new residency programs are not included in the rolling average for a period of years equal to the minimum accredited length for the type of program.

In addition, we are proposing to revise § 412.105(f)(1)(ix) to specify, for IME purposes, a temporary adjustment to a hospital's FTE cap to reflect residents added because of another hospital's closure of its medical residency program (to conform to the

proposed change for GME discussed in section IV.G.5. of this preamble).

D. Payments to Disproportionate Share Hospitals (§ 412.106)

Effective for discharges beginning on or after May 1, 1986, hospitals that serve a significantly disproportionate number of low-income patients (as defined in section 1886(d)(5)(F) of the Act) receive additional payments through the DSH adjustment.

Section 1886(d)(5)(F)(ix) of the Act, as amended by section 112 of Public Law 106–113, specifies a percentage reduction in the payments a hospital would otherwise receive under the disproportionate share formula. Prior to enactment of section 303 of Public Law 106–554, the reduction percentages were as follows: 3 percent for FY 2001, 4 percent for FY 2002, and 0 percent for FY 2003 and each subsequent fiscal year.

Section 303 of Public Law 106–554 revised the amount of the percent reductions to 2 percent for discharges occurring in FY 2001, and to 3 percent for discharges occurring in FY 2002. The reduction continues to be 0 percent for FY 2003 and each subsequent fiscal year. Section 303 of Public Law 106–554 contains a special rule for FY 2001: For discharges occurring on or after October 1, 2000 and before April 1, 2001, the reduction is to be 3 percent, and for discharges occurring on or after April 1, 2001 and before October 1, 2001, the reduction is to be 1 percent. Changes made by section 303 with respect to FY 2001 discharges are being implemented in a separate interim final rule with comment period (HCFA–1178–IFC).

We are proposing to revise § 412.106(e) to reflect the change in the percentage for FY 2002 made by section 303 of Public Law 106–554. We also are proposing to make a technical change in the heading of paragraph (e).

E. Medicare Geographic Classification Review Board (Proposed New § 412.235 and Existing §§ 412.256, 412.273, 412.274(b), and 412.276)

With the creation of the Medicare Geographic Classification Review Board (MGCRB), beginning in FY 1991, under section 1886(d)(10) of the Act, hospitals could request reclassification from one geographic location to another for the purpose of using the other area's standardized amount for inpatient operating costs or the wage index value, or both (September 6, 1990 interim final rule with comment period (55 FR 36754), June 4, 1991 final rule with comment period (56 FR 25458), and June 4, 1992 proposed rule (57 FR 23631)). Implementing regulations in Subpart L of Part 412 (§§ 412.230 *et seq.*) set forth criteria and conditions for redesignations from rural to urban, rural to rural, or from an urban area to another urban area with special rules for SCHs and RRCs.

Section 304 of Public Law 106–554 contained several provisions related to the wage index and reclassification decisions made by the MGCRB. In summary, section 304 first establishes that hospital reclassification decisions by the MGCRB for wage index purposes are effective for 3 years, beginning with reclassifications for FY 2001. Second, it provides that the MGCRB must use the 3 most recent years of average hourly wage data in evaluating a hospital's reclassification application for FY 2003 and subsequent years. Third, it provides that an appropriate statewide entity may apply to have all of the geographic areas in a State treated as a single geographic area for purposes of computing and applying the wage index, for reclassifications beginning in FY 2003. A discussion of how we are proposing to implement these three provisions follows. (Section III.F. of this preamble discusses the application of these proposed policy changes to the development of the proposed FY 2002 and later wage indexes based on hospital reclassification under the provisions of section 304 of Public Law 106–554.)

1. Three-Year Reclassifications for Wage Index Purposes

Section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding clause (v), which provides that, if a hospital is approved for reclassification by the MGCRB for purposes of the wage index, the reclassification is effective for 3 years. The amendment made by section 304(a) is effective for reclassifications for FY 2001 and subsequent years. In addition, the legislation specifies that the Secretary must establish a mechanism under which a hospital may elect to terminate such reclassification during the 3-year period.

Consistent with new section 1886(d)(10)(D)(v) of the Act, we are proposing to revise § 412.274(b) to provide under new paragraph (b)(2) that any hospital that is reclassified for a particular fiscal year for purposes of receiving the wage index value of another area would receive that reclassification for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year in which a hospital files a complete application. This 3-year reclassification would remain in effect unless the hospital terminates the reclassification under proposed revised procedures that we are establishing under new proposed § 412.273(b). The proposed provision would apply to hospitals that are reclassified for purposes of the wage index only, as well as those that are reclassified for both the wage index and the standardized amount. However, in the latter case, only the wage index reclassification would be extended for 2 additional years beyond the 1 year provided for in the existing regulations (3 years total). Hospitals seeking reclassification for purposes of the standardized amount must continue to reapply to the MGCRB on an annual basis.

a. Special Rule for a Hospital That Was Reclassified for FY 2001 and FY 2002 to Different Areas

Because the 3-year effect of the amendment made by section 304(a) of Public Law 106–554 is applicable to reclassifications for FY 2001 (which had already taken place prior to the date of enactment of section 304(a) (December 21, 2000), and because the application process for reclassifications for FY 2002 had already been completed by the date of enactment, we are establishing special procedures for hospitals that are reclassified for purposes of the wage index to one area for FY 2001, and are reclassified for purposes of the wage index or the standardized amount to another area for FY 2002. We are deeming such a hospital to be reclassified to the area for which it applied for FY 2002, unless the hospital elects to receive the wage index reclassification it was granted for FY 2001. Consistent with our procedures for withdrawing an application for reclassification (§ 412.273), we are allowing a hospital that wishes to receive the reclassification it was granted for FY 2001 to withdraw its FY 2002 application by making a written request to the MGCRB within 45 days of the publication date of this proposed rule (that is, by June 18, 2001). Again, only the wage index reclassification is extended for 2 additional years (3 years total). Hospitals seeking reclassification for purposes of the standardized amount must continue to reapply to the MGCRB on an annual basis.

(We note that the new location and mailing address of the MGCRB and the Provider Reimbursement Review Board (PRRB) is: 2520 Lord Baltimore Drive, Suite L, Baltimore, MD 21244–2670. The MGCRB and PRRB will be functioning at this new location as of May 21, 2001. Also, please specify whether the mail is intended for the MGCRB or the PRRB.)

b. Overlapping Reclassifications Are Not Permitted

Under the broad authority delegated to the Secretary by section 1886(d)(10) of the Act, we are proposing that a hospital that is reclassified to an area for purposes of the wage index may not extend the 3-year effect of the reclassification under section 304(a) of Public Law 106–554 by subsequently applying for reclassification to the same area for purposes of the wage index for a fiscal year that would be within the 3-year period. For example, if a hospital is reclassified for purposes of the wage index to Area A for FY 2002, is approved to receive Area A's wage index for 3 years (FYs 2002, 2003, and 2004), and reapplies to be reclassified to Area A for FYs 2003, 2004, and 2005 (3 years) for purposes of the wage index, the hospital would not be permitted to receive Area A's wage index for FY 2005 as a result of the reapplication. Instead, we are proposing that if the hospital wishes to extend the FY 2002 3-year reclassification for fiscal years beyond FY 2004, it would have to apply for reclassification for FY 2005.

We believe new section 1886(d)(10)(D)(v) of the Act replaces the current annual reclassification cycle with a 3-year reclassification cycle. We believe this policy was intended to provide consistency and predictability in hospital reclassification and wage index data, as well as to alleviate the year-to-year fluctuations in the ability of some hospitals to qualify for reclassification. We do not believe it was intended to be used to extend reclassifications for which hospitals otherwise would not be eligible (by reapplying during the second year of a 3-year reclassification because a hospital fears it may not be eligible for reclassification after its current 3-year reclassification expires).

c. Withdrawals of Applications and Terminations of Approved Reclassifications

(1) General

Under § 412.273(a), a hospital, or group of hospitals, may withdraw its application for reclassification at any time before the MGCRB issues its decision or, if after the MGCRB issues its decision, within 45 days of publication of our annual notice of proposed rulemaking concerning changes to the inpatient hospital prospective payment system and proposed payment rates for the fiscal year for which the application was filed. We are proposing that the withdrawal procedures and the applicable timeframes in the existing regulations would apply to hospitals that would receive 3-year reclassification for wage index purposes. For example, if a hospital applied for reclassification to Area A for purposes of the wage index for FY 2002, but wished or wishes to withdraw its application, it must have done so prior to the MGCRB issuing a decision on its application or, if the MGCRB issued such a decision, within 45 days of the publication date of this proposed rule. Such a withdrawal, if effective, means that the hospital would not be reclassified to Area A for purposes of the wage index for FY 2002 (and would not receive continued reclassification for FYs 2003 and 2004). In other words, a withdrawal, if accepted, prevents a reclassification from ever becoming effective.

On the other hand, a reclassification decision that is terminated upon the request of the hospital has partial effect. Section 1886(d)(10)(D)(v) of the Act, as added by section 304(a) of Public Law 106–554, provides that a reclassification for purposes of the wage index is effective for 3 years ''except that the Secretary shall establish procedures under which a * * * hospital may elect to terminate such reclassification before the end of such period.'' Consistent with section 1886(d)(10)(D)(v) of the Act, we are proposing to allow a hospital to terminate its approved 3-year reclassification for 1 or 2 years of the 3-year effective period (proposed § 412.273(b)). For example, a hospital that has been reclassified for purposes of the wage index for FY 2001 is also reclassified for FYs 2002 and 2003 (3 years). Such a hospital could terminate its approved reclassification so that the reclassification is effective only for FY 2001, or only for FYs 2001 and 2002. Consistent with the prospective nature of reclassifications, we would not permit a hospital to terminate its approved 3-year reclassification for part of a fiscal year. A termination would be effective for the next fiscal year. In order to terminate an approved 3-year reclassification, we would require the hospital to notify the MGCRB in writing within 45 days of the publication date of the annual proposed rule for changes to the inpatient hospital prospective payment system. A termination request, once accepted, is effective for the balance of the 3-year period (as discussed below under reapplying within original 3-year period, following a termination).

We are establishing a special procedural rule for handling FY 2001 reclassifications. As noted above, the amendments made by section 304(a) of Public Law 106–554 are effective for reclassifications for FYs 2001 and beyond, and reclassification applications for FY 2001 had already been submitted prior to the date of enactment of section 304(a). We are deeming those hospitals that were reclassified for FY 2001 to be reclassified for FYs 2002 and 2003. Therefore, if a deemed hospital that was reclassified for purposes of the wage index for FY 2001 does not wish to continue its reclassification for FY 2002 and FY 2003, the hospital must notify the MGCRB in writing within 45 days after the publication of this proposed rule (that is, by June 18, 2001).

(2) Reinstatement After a Withdrawal of Application or a Termination of an Approved Reclassification

We are proposing that if a hospital elects to withdraw its 3-year reclassification application after the MGCRB has issued its decision, it may cancel its withdrawal in a subsequent fiscal year and request the MGCRB to reinstate its reclassification for the remaining fiscal years of the 3-year reclassification period. (This proposal is consistent with our proposal that 3-year reclassification periods may not overlap, as discussed in section IV.E.1.b. of this preamble.) Alternatively, a hospital may apply for reclassification to a different area (that is, an area different from the one to which it was originally reclassified), and if successful, the reclassification effect would be for 3 years.

Example 1: Hospital A files an application and the MGCRB issues a decision to reclassify it to Area A for purposes of wage index for FY 2002 through FY 2004 (3 years). Within 45 days after the publication of this proposed rule, Hospital A withdraws its application. Within the time for applying for a FY 2003 reclassification, Hospital A cancels its withdrawal for classification to Area A. Its reclassification to Area A is reinstated, but only for FYs 2003 and 2004.

Example 2: Hospital B files an application for reclassification for wage index purposes for FY 2002 through FY 2004 and the MGCRB issues a decision for reclassification to Area B. Within 45 days after publication of this proposed rule, Hospital B withdraws its application. Hospital B does not cancel its withdrawal of the application. Hospital B timely applies and is reclassified to Area B for 3 years, beginning with FY 2003. In this case, the reclassification to Area B would be for FYs 2003 through 2005.

Similarly, and for the same reasons, we are proposing that if a hospital elects to terminate its accepted 3-year reclassification, it may cancel that termination and have its original reclassification reinstated for the duration of the original 3-year period. Alternatively, a hospital could apply for reclassification to a different area and receive a new 3-year period of reclassification.

Example 3: Hospital C is reclassified to Area A for purposes of the wage index for FY

2002, and terminates its 3-year reclassification effective for FYs 2003 and 2004. Within the timeframe for applying for FY 2004 reclassification, Hospital C cancels its termination. Its reclassification to Area A would be reinstated for FY 2004 only.

Example 4: Hospital D has the same circumstances as Hospital C in Example 3, except that instead of canceling its termination, Hospital D applies and is reclassified to Area B for FY 2004. In this case, the reclassification would be for FYs 2004 through 2006.

d. Special Rules for Group Reclassifications

Section 412.232 discusses situations where all hospitals in a rural county are seeking urban redesignation, and § 412.234 discusses criteria where all hospitals in an urban county are seeking redesignation to another urban county. In these cases, hospitals submit an application as a group, and all hospitals in the county must be a party to the application. The reclassification is effective both for purposes of the wage index and the standardized amount of the area to which the hospitals are reclassified.

Section 304(a) of Public Law 106–554 does not specifically address the group reclassification situations under §§ 412.232 and 412.234. However, we believe that, in the case of hospitals reclassified under these group reclassification procedures, it would be appropriate to extend the 3-year reclassification provision to these situations for the wage index only. In order to be reclassified for the standardized amount during the second and third years of a 3-year reclassification for the wage index, the hospitals located in these counties would have to reapply on an annual basis to the MGCRB either as a group or as individual hospitals and meet the criteria outlined in §§ 412.232(a) and 412.234(a).

Hospitals that are part of a group reclassification would be able to withdraw or terminate their 3-year wage index reclassifications in the same manner as described above. If one hospital within the group elects to withdraw or terminate its reclassification, the reclassification of other hospitals in the group would be unaffected.

Under section 152(b) of Public Law 106–113, hospitals in certain counties were deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, for discharges occurring on or after October 1, 2000. For payment purposes, these hospitals are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. Section 152(b) also requires that these reclassifications be treated for FY 2001 as though they are reclassification decisions by the MGCRB. For purposes of applying the 3-year extension of wage index reclassifications, we are proposing to extend section 1886(d)(10)(D)(v) to hospitals reclassified under section 152(b) of Public Law 106–113. These hospitals also would have to apply for the standardized amount on an annual basis to the MGCRB.

e. Administrator Authority To Cancel Inappropriate Reclassification Decisions

Under the provisions of § 412.278(g), the Administrator has the authority to review an inappropriate reclassification decision made by the MGCRB, as discovered by either the hospital or HCFA, including 3-year reclassifications in the second and third year, and to determine whether or not to cancel that decision as a result of the review of the facts. Hospitals that are concerned that they have been inappropriately reclassified should follow the procedures outlined in § 412.278.

2. Three-Year Average Hourly Wages

Section 304(a) of Public Law 106–554 amended section 1886(d)(10)(D) of the Act by adding clause (vi) which provides that the MGCRB must use the average of the 3 most recent years of hourly wage data for the hospital when evaluating a hospital's request for reclassification. Specifically, the MGCRB must base its evaluation on an average of the average hourly wage for the most recent years for the hospital seeking reclassification and the area to which the hospital seeks to reclassify. This provision is effective for reclassifications for FY 2003 and subsequent years. (Section III.F. of this preamble discusses the development and application of the proposed 3-year average hourly wage data (Table 2 in the Addendum to this proposed rule) that the MGCRB would use to evaluate hospitals' applications for reclassifications for FY 2003; and the 3-year average hourly wage data (Tables 3A and 3B in the Addendum to this proposed rule) for hospital reclassification applications for FY 2001.)

We are proposing to revise §§ 412.230(e)(2) and 412.232(d)(2) to incorporate the provisions of section 1886(d)(10)(D)(vi) of the Act as added by section 304(a) of Public Law 106–554. Specifically, we are providing that, for redesignations effective beginning FY 2003, for hospital-specific data, the hospital must provide a 3-year average of its average hourly wages using data from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes. For data for other hospitals, we are proposing to require hospitals to provide a 3-year average of the average hourly wage in the area in which the hospital is located and a 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data would be taken from the HCFA hospital wage survey used to construct the wage index for prospective payment purposes. The 3-year averages are calculated by dividing the sum of the dollars (adjusted to a common reporting period using the method described in section III. of the proposed rule) across all 3 years, by the sum of the hours.

3. Statewide Wage Index

As stated earlier, section 304(b) of Public Law 106–554 provides for a process under which an appropriate statewide entity may apply to have all the geographic areas in the State treated as a single geographic area for purposes of computing and applying the area wage index for reclassifications beginning in FY 2003.

Section 304 does not indicate the duration of the application of these statewide wage indexes. However, it should be noted that the statutory language does refer to these applications as reclassifications. We are proposing that these statewide wage index applications be processed similar to MGCRB applications, with the same effective dates of the decisions and the withdrawal process. Therefore, similar to wage index reclassification decisions under section 1886(d)(10)(D)(v) of the Act as added by section 304(a) of Public Law 106–554, the statewide wage index reclassification would be effective for a total of 3 years. The same deadlines and timetable applicable to MGCRB reclassification applications would apply for statewide wage index applications.

We are proposing to establish a new § 412.235 to include the requirements for statewide wage indexes. We are proposing to apply the following criteria to determine whether hospitals would be approved for a statewide geographic wage index reclassification (proposed § 412.235(a)):

- There must be unanimous support for a statewide wage index among hospitals in the State in which the statewide wage index would be applied. We would require a signed affidavit on behalf of all the hospitals in the State of this support as part of the application for reclassification.

• All hospitals in the State must apply through a signed single application for the statewide wage index in order for the application to be considered by the MGCRB. We believe this is necessary to ensure that every hospital in the State is included in the application, since the payment of every hospital would be affected by the statewide wage index.

• There must be unanimous support for the termination or withdrawal of a statewide wage index among hospitals in the State in which the statewide index would be applied. We would require a signed affidavit for this agreement.

• All hospitals in the State waive their rights to any wage index that they would otherwise receive absent the statewide wage index, including a wage index that any of the hospitals might have received through individual or group geographic reclassification under § 412.273(a).

An individual hospital within the State may receive a wage index that could be higher or lower under the statewide wage index reclassification in comparison to its wage index otherwise (proposed § 412.235(b)). Specifically, hospitals must be aware that there may be a reduction in the wage index as a result of participation on a statewide basis.

We are proposing to consider statewide wage index applications under the same process we use for hospital reclassification applications, including the effective dates of the MGCRB decision and the withdrawal process (proposed § 412.235(c)). We are proposing that applications for the statewide wage index would be effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the hospitals file a complete application unless all of the participating hospitals terminate their approved statewide wage index classification earlier, as discussed below. Once approved by the MGCRB, an application for a statewide wage index can only be withdrawn or terminated as a result of a signed affidavit on behalf of all the hospitals in the State indicating their request that the statewide reclassification be withdrawn or terminated. A request for withdrawal or termination must be submitted within 45 days of the publication of the annual proposed rule for the inpatient hospital prospective payment system announcing the reclassification. New hospitals that open prior to the deadline for submitting an application for a statewide wage index, but after a group application has been submitted, would be required to agree to the statewide wage index in order for the group application to remain viable. New hospitals that open after the deadline for submitting an application would receive the statewide wage index. The agreement of new hospitals would also be required in order to withdraw or terminate a statewide wage index reclassification. The proposed rules discussed under section IV.E.1.c. of this preamble for withdrawals of applications and terminations of approved 3-year wage index reclassification decisions would apply to decisions regarding statewide wage index reclassifications.

We also are proposing to allow hospitals outside a State in which hospitals have received approval of a statewide wage index classification to seek reclassification for the statewide wage index into that State. In that case, an outside hospital(s) that is reclassified into the statewide wage index area would receive a wage index calculated based on the statewide wage index reclassification. However, the support of such an outside hospital(s) would not be needed in the case of withdrawal or termination of a statewide wage index reclassification.

F. New Medical Services and Technology: Additional Payments Under the Inpatient Hospital Prospective Payment System (Proposed New §§ 412.87 and 412.88)

Section 533(b) of Public Law 106–554 amended section 1886(d)(5) of the Act to add new subparagraphs (K) and (L) to address a process of identifying and ensuring adequate payment for new medical services and technologies under Medicare. Under new section 1886(d)(5)(K)(i) of the Act, effective for discharges beginning on or after October 1, 2001, the Secretary is required to establish (after notice and opportunity for public comment) a mechanism to recognize the costs of new services and technologies under the inpatient hospital prospective payment system. New section 1886(d)(5)(K)(ii)(I) of the Act specifies that the mechanism must apply to a new medical service or technology if, ''based on the estimated costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges * * * is inadequate.'' New section 1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered ''new'' if it meets criteria established by the Secretary (after notice and opportunity for public comment).

New sections 1886(d)(5)(K)(ii) through (vi) of the Act further provide—

• For an additional payment for new medical services and technology in an amount beyond the DRG prospective payment system payment rate that adequately reflects the estimated average cost of the service or technology.

• That the requirement for an additional payment for a new service or technology may be satisfied by means of a new-technology group (described in new section 1886(d)(5)(L) of the Act), an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable with respect to a discharge.

• For the collection of data relating to the cost of new medical service, or technology for not less than 2 years and no more than 3 years after an appropriate inpatient hospital services code is issued. The statute further provides that discharges involving new services or technology that occur after the collection of these data will be classified within a new or existing DRG group with a weighting factor derived from cost data collected for discharges occurring during such period.

A discussion of how we are proposing to implement the provisions of section 533(b) of Public Law 106–554 follows. Section II.D. of this preamble discusses the Report to Congress required by section 533(a) of Public Law 106–553 relating to methods of expeditiously incorporating new medical services and technologies into the clinical coding system used for payments for inpatient hospital services and our preferred method of achieving this purpose.

1. Criteria for Identifying New Medical Services and Technology

New section 1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered ''new'' if it meets criteria established by the Secretary (after notice and opportunity for public comment). (For convenience, hereafter we refer to ''new medical services and technology'' as ''new technology.'') We are proposing that a new technology would be an appropriate candidate for an additional payment when, in the judgment of the Secretary, it represents an advance in medical technology that substantially improves, relative to technologies previously available, the diagnosis or treatment of Medicare beneficiaries (proposed § 412.87(b)(1)). This criterion is to ensure that new technology can be demonstrated to provide a substantial clinical improvement based on verifiable evidence. Because any additional payments made under this

provision will be financed by reducing the payments made for all other services (in order to maintain budget neutrality as discussed under section IV.F.4. of this preamble), we believe that these payments should be focused on those technologies that afford clear improvements over use of previously available technologies. As explained below, we are proposing that new technologies meeting this clinical definition also must be demonstrated to be inadequately paid otherwise under the DRG system to receive special payment treatment (proposed § 412.87(b)(3)). Hospitals adopting other new technologies that do not meet these standards would be paid for these technologies through other applicable DRG payments. These payments would be recalibrated over time to reflect actual use of the new technology.

We expect to implement this criterion by considering the clinical benefits for beneficiaries. We are aware that some technologies may offer substantial clinical improvements for small subsets of beneficiaries, such as those who have not responded to other treatments, and we expect to recognize such substantial advantages in these instances.

In addition to the clinical and cost criteria, we are proposing that, in order to qualify for the special payment treatment provided under new section 1886(d)(5)(K)(ii)(I) of the Act, a specific technology must be new (proposed § 412.87(b)(2)). We believe the new provision contemplates the special payment treatment for new technologies until such time as data are available to reflect the cost of the technology in the DRG weights through recalibration (generally 2 years). Specifically, new section 1886(d)(5)(K)(ii)(II) of the Act states that the Secretary must ''provide for the collection of data with respect to the costs of a new medical service or technology * * * for a period of not less than two years and not more than three years beginning on the date on which an inpatient hospital code is issued with respect to the service or technology.'' In addition, new section 1886(d)(5)(K)(ii)(III) states that the Secretary must ''provide for additional payment to be made * * * with respect to discharges involving a new medical service or technology described in subclause (I) that occur during the period described in subclause (II) in an amount that adequately reflects the estimated average costs of such service or technology.''

We are proposing to make determinations regarding which technologies meet this criterion using a panel of Federal clinical and other experts, supplemented as appropriate with outside expertise. The results of all such determinations would be announced in the **Federal Register** as part of the annual updates and changes to the inpatient hospital prospective payment system (proposed § 412.87(b)(1)). We note that this determination is separate and distinct from the coverage decision process. In the case of new technologies that have gone through the national coverage determination process, we would expect that the evidence reviewed in that process would, in general, be sufficient for making these determinations as well.

Requests to recognize new technology for special payment treatment under new section 1886(d)(5)(K)(ii)(I) of the Act would be evaluated against this proposed criterion based on evidence submitted by the requestor. These requests should be submitted in conjunction with the initial submission of data on the costs of the new technology. In general, we encourage interested parties to initiate this process by August of the year preceding the year in which a new code identifying the new technology would become effective. This will allow maximum time to review the requestor's data and clinical material. In particular, it affords an opportunity to work with the requestor to resolve any problems or questions that may arise. At a minimum, requests should be submitted by early October of that year. It should be noted that submitting requests as late as October may not afford the opportunity for HCFA to work with the requestor to resolve problems or questions. Requests must be submitted by early October to allow adequate time to consider all aspects of a request prior to making a determination to be included in the proposed rule. Work begins on preparing the DRG changes for the following fiscal year by the middle of December, and any decisions to recognize particular new technologies should be taken into account at that time.

We are soliciting comments on these proposals. In particular, given that this process is the result of new legislation with possibly major implications for the hospital inpatient prospective payment system, we invite public comment on: our definition of new medical services and technologies; the use of Federal clinical and other experts to make determinations regarding which criteria meet our definition of a new service or technology; the information necessary to determine whether payment would be inadequate; and our payment mechanism (see following discussions for these latter two issues).

2. Determining Adequacy of Current Payments for New Services and Technology

Because the inpatient hospital prospective payment system includes costs associated with all aspects of a patient's stay in the hospital, it is not enough to simply identify a technology as ''new'' and pay an additional amount. A single DRG may encompass many different treatment approaches for a particular illness, with an array of costs associated with those approaches. Clinicians are expected to select the appropriate approach based on the needs of the patient, with the payments averaging out over time to approximate the level of resources needed to treat the average patient in the DRG.

Section 1886(d)(b)(K)(ii) of the Act, as added by section 533(b) of Public Law 106–554, requires that the Secretary make a determination whether the payment otherwise applicable under the existing DRG is inadequate compared to the estimated costs incurred with respect to new technology (as defined previously). We believe that, in order to evaluate whether the DRG payment inadequately reflects the costs of new technology, we must be able to assess the costs of cases involving the new technology against other cases in the DRG. In other words, the criteria for identifying new technology that will receive special payment treatment should reflect whether the new technology is so expensive that hospitals are unlikely to offset the higher costs with other less costly cases within the DRG. We are proposing that this threshold be set at one standard deviation beyond the mean standardized charge for all cases in the DRG to which the new technology is assigned (or the case-weighted average of all relevant DRGs, if the new technology occurs in many different DRGs) (proposed § 412.87(b)(3)). (Standardization adjusts the actual charges of a case by the payment factors such as the wage index, the indirect medical education adjustment factor, and the disproportionate share adjustment factor.)

This comparison would preferably be done using Medicare cases identifiable in our MedPAR database, although data from a clinical trial (including Food and Drug Administration clinical trials) where no bills were submitted for payment may be considered. To the extent possible, HCFA intends to rely on existing information in making these determinations. In most instances, the information would include the Medicare provider number of the hospital where each case was treated,

the beneficiary identification numbers of the Medicare patients, the dates of admission and discharge, the charges associated with each case, and all relevant ICD–9–CM codes associated with each case. We would then assess the charges of identified cases involving the new technology, accounting for the additional costs of the new technology that might not be included in the charges if the new technology is being provided by the manufacturer as part of the clinical trial. If the costs of the new technology are not included in the total charges, the requestor must submit adequate documentation upon which to formulate an estimate of the likely costs to hospitals of the new technology.

A significant sample of the data should be submitted no later than early October, approximately 6 months prior to the publication of the proposed rule. Subsequently, a complete database must be submitted no later than mid-December. This timetable is necessary to allow adequate time to assess and verify the data, as well as to work with the submitters to deal with any unique situations with respect to data availability. It is also necessary to allow us to accurately incorporate the data into the proposed rule, which we begin preparing in January. We are soliciting public comments on this process.

To illustrate the proposed use of the standard deviation thresholds, consider DRG 8 (Peripheral and Cranial Nerve and Other Nervous System Procedures Without CC). The average standardized charge of cases assigned to this DRG based on discharges during FY 2000 was $13,212, and the standard deviation was $8,978. Therefore, if a requestor were to seek assignment of a new technology that would otherwise be assigned to DRG 8 to a different DRG, the requestor would be expected to provide data indicating that the average standardized charge of cases receiving this new technology will exceed $22,190. These data must be of a sufficient sample size to demonstrate a significant likelihood that the true mean across all cases likely to receive the new technology will exceed the mean for the cases in DRG 8 by one standard deviation.

Using standard deviation as the threshold takes into account the distribution of charges associated with different treatment modalities around the mean charge for a particular DRG, and the extent to which lower cost cases in the DRG should be expected to offset higher cost cases. Using this method, new technology in a DRG with very little variation in charges would be more likely to meet the criteria. This would be appropriate because there are fewer opportunities within such a DRG to recover the costs of very high cost cases from excess payments for very low cost cases.

We note that, although we anticipate a limited number of new technologies will qualify under this proposed threshold, we will continue to evaluate the appropriateness of all DRG assignments. This applies not only to new technology but existing technologies as well.

3. Developing a Payment Mechanism

Section 1886(d)(5)(K)(v) of the Act, as added by section 533(b) of Public Law 106–554, provides flexibility to the Secretary in terms of deciding exactly how the requirement for an additional payment will be satisfied: a new-technology group, an add-on payment, a payment adjustment, or any other similar mechanism for increasing the amount otherwise payable. We believe the approach most consistent with the design and incentives of the inpatient hospital prospective payment system would be to assign new technology to the most appropriate DRG based on the condition of the patient as described above, and adjust payments for individual cases that involve the new technology when the costs of those cases exceed a threshold amount. That is, we would not pay an additional amount for every case involving the new technology, but only where the costs of the entire case exceed the DRG payment amount. We are concerned that the establishment of new DRGs specifically for the purpose of recognizing costly new technology could potentially severely disrupt the DRG classification structure. In particular, we are concerned that some new technologies may involve large numbers of cases across multiple DRGs. Creating new DRGs specifically for new technology would pull cases out of existing DRGs, possibly leading to severe distortions in the relative weights and inadequate payments for cases remaining in the existing DRGs.

We are proposing that Medicare provide higher payments for cases with higher costs involving identified new technologies, while preserving some of the incentives under the average-based payments for all treatment modalities for a particular patient category. The payment mechanism we are proposing would be based on the cost to hospitals for the new technology. We are proposing under § 412.88 that Medicare would pay a marginal cost factor of 50 percent for the costs of the new technology in excess of the full DRG payment. This would be calculated before any outlier payments under section 1886(d)(5)(A) of the Act, if applicable. Similarly, cases involving new technology would be eligible for outlier payments, with the additional amounts paid for the new technology included in the base payment amount. Costs would be determined by applying the cost-to-charge ratio in a manner identical to that currently used for outlier payments. If the costs of a new technology case exceed the DRG payment by more than the estimated costs of the new technology, Medicare payment would be limited to the DRG payment plus 50 percent of the estimated costs of the new technology, except if the case qualified for outlier payments. (We are proposing a conforming change to § 412.80 by adding a new paragraph (a)(3) to provide that outlier qualifying thresholds and payments would be in addition to standard DRG payments and additional payments for new medical services and technology (effective October 1, 2001).)

For example, consider a new technology estimated to cost $3,000, in a DRG that pays $20,000. A hospital submits three claims for cases involving this new technology. After applying the hospital's cost-to-charge ratio, it is determined the costs of these three cases are $19,000, $22,000, and $25,000. Under our proposal, Medicare would pay $20,000 (the DRG payment) for the first claim. For the second claim, Medicare would pay one half of the amount by which the costs of the case exceed the DRG payment, up to the estimated cost of the new technology, or $21,000 ($20,000 plus one half of $2,000). For the third claim, Medicare would pay $21,500 ($20,000 plus one half of the total estimated costs of the new technology).

We believe it is appropriate to limit the additional payment to 50 percent of the additional cost to appropriately balance the incentives. This limit would provide hospitals an incentive for continued cost-effective behavior in relation to the overall costs of the case. In addition, hospitals would face an incentive to balance the desirability of using the new technology versus the old; otherwise, there would be a large and perhaps inappropriate incentive to use the new technology. For example, in the late 1980s, we considered whether to establish a special payment adjustment for tissue plasminogen activator (TPA), a thrombolytic agent used in treating blockages of coronary arteries, reflecting the high costs of the drug. We did not establish such an adjustment because we believed that the updates to the standardized amounts, combined with the potential for continuing improvements in hospital

productivity, would be adequate to finance appropriate care of Medicare patients. In fact, the costs of the drug were offset by shorter hospital stays and an overall reduction in costs per case. As clinical experience with TPA accumulated, furthermore, it appeared that the drug was not as widely beneficial as its original proponents expected. Establishing an add-on payment for this drug might have actually led to more extensive use of this drug for patients who would not have benefited, and might have even been harmed, by its blood-thinning characteristics.

4. Budget Neutrality

The report language accompanying section 533 of Public Law 106–554 directs that the Secretary implement the new mechanism on a budget neutral basis (H.R. Conf. Rep. No. 106–1033, 106th Cong., 2d Sess. at 897 (2000)). Section 1886(d)(4)(C)(iii) of the Act requires that the adjustments to annual DRG classifications and relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. Therefore, we would simulate projected payments under this provision for new technology during the upcoming fiscal year at the same time we estimate the payment effect of changes to the DRG classifications and recalibration. The impact of those additional payments would then be factored into the budget neutrality factor, which is applied to the standardized amounts.

Because any additional payments directed toward new technology under this provision would be offset to ensure budget neutrality, it is important to carefully consider the extent of this provision and ensure that only technologies representing substantial advances are recognized for additional payments. In that regard, we would discuss in the annual proposed and final regulations implementing changes to the inpatient hospital prospective payment system those technologies that were considered under this provision; our determination as to whether a particular new technology meets our criteria for a new technology; whether it is determined further that cases involving the new technology would be inadequately paid under the existing DRG payment; and any assumptions that went into the budget neutrality calculations related to additional payments for that new technology, including the expected number, distribution, and costs of these cases.

The payments made under this provision would be redistributed from all other payments made under the inpatient prospective payment system; DRG payments would be reduced by amounts we estimate to be necessary to pay for the estimated aggregate new technology payments. Our projections of the aggregate payments for new technology would involve not only estimates of the effect of the new technology on the entire cost per case but also estimates of the volume of cases expected to involve the new technology during the upcoming year. Given the uncertainty in both of these aspects of the projections, we believe it is important to expose our estimates to public comment before implementing them.

G. Payment for Direct Costs of Graduate Medical Education (§ 413.86)

1. Background

Under section 1886(h) of the Act, Medicare pays hospitals for the direct costs of graduate medical education (GME). The payments are based in part on the number of residents trained by the hospital. Section 1886(h) of the Act, as amended by section 4623 of Public Law 105–33, caps the number of residents that hospitals may count for direct GME.

Section 1886(h)(2) of the Act, as amended by section 9202 of the Consolidated Omnibus Reconciliation Act (COBRA) of 1985 (Public Law 99–272), and implemented in regulations at § 413.86(e), establishes a methodology for determining payments to hospitals for the costs of approved GME programs. Section 1886(h)(2) of the Act, as amended by COBRA, sets forth a payment methodology for the determination of a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable costs of GME for a base period by its number of residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, the period of October 1, 1983 through September 30, 1984). The PRA is multiplied by the number of FTE residents working in all areas of the hospital complex (or nonhospital sites, when applicable), and the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payments. In addition, as specified in section 1886(h)(2)(D)(ii) of the Act, for cost reporting periods beginning on or after October 1, 1993, through September 30, 1995, each hospital's PRA for the previous cost reporting period is not updated for inflation for any FTE residents who are not either a primary care or an obstetrics and gynecology resident. As a result, hospitals with both primary care and obstetrics and gynecology residents and nonprimary care residents have two separate PRAs beginning in FY 1994: one for primary care and one for nonprimary care.

Section 1886(h)(2) of the Act was further amended by section 311 of Public Law 106–113 to establish a methodology for the use of a national average PRA in computing direct GME payments for cost reporting periods beginning on or after October 1, 2000, and on or before September 30, 2005. Generally, section 1886(h)(2) of the Act establishes a ''floor'' and a ''ceiling'' based on a locality-adjusted, updated, weighted average PRA. Each hospital's PRA is compared to the floor and ceiling to determine whether its PRA should be revised. PRAs that are below the floor, that is, 70 percent of the locality-adjusted, updated, weighted average PRA, would be revised to equal 70 percent of the locality-adjusted, updated, weighted average PRA. PRAs that exceed the ceiling, that is, 140 percent of the locality-adjusted, updated, weighted average PRA, would, depending on the fiscal year, either be frozen and not increased for inflation, or increased by a reduced inflation factor. We implemented section 311 of Public Law 106–113 in the hospital inpatient prospective payment system final rule published on August 1, 2000 (65 FR 47090). In that final rule, we set forth the methodology for calculating the weighted average PRA and outlined the steps for determining whether a hospital's PRA would be revised.

2. Amendments Made by Section 511 of Public Law 106–554 (§ 413.86(e)(4)(ii)(C) and (e)(5)(iv))

Section 511 of Public Law 106–554 amended section 1886(h)(2)(D)(iii) of the Act by increasing the floor to 85 percent of the locality-adjusted national average PRA. In general, section 511 provides that, effective for cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, PRAs that are below 85 percent of the respective locality-adjusted national average PRA would be increased to equal 85 percent of that locality-adjusted national average PRA. Accordingly, we are proposing to implement section 511 by revising § 413.86(e)(4)(ii)(C)(*1*) to incorporate this change and by outlining the methodology for determining whether a hospital's PRA(s) will be adjusted in FY 2002 relative to the increased floor of the locality-adjusted national average PRA.

In the August 1, 2000 final rule (65 FR 47091 and 47092), as implemented at

§ 413.86(e)(4), we determined, in accordance with section 311 of Public Law 106–113, that the weighted average PRA for cost reporting periods ending during FY 1997 is $68,464. We described the procedures for updating the weighted average PRA of $68,464 for inflation to FY 2001 and for adjusting this average for the locality of each individual hospital. We then outlined the steps for comparing each hospital's PRA(s) to the locality-adjusted national average PRA to determine if, for cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, the PRAs should be revised to equal the 70-percent floor.

In accordance with section 511 of Public Law 106–554, in this proposed rule, we are proposing that, for cost reporting periods beginning during FY 2002, the FY 2002 PRAs of hospitals that are below 85 percent of the respective locality-adjusted national average PRA for FY 2002 be increased to equal 85 percent of that locality-adjusted national average PRA. Specifically, to determine which PRAs (primary care and nonprimary care separately) for each hospital are below the 85-percent floor, each hospital's locality-adjusted national average PRA for FY 2002 is multiplied by 85 percent. This resulting number is then compared to each hospital's PRA that is updated for inflation to FY 2002. If the hospital's PRA would be less than 85 percent of the locality-adjusted national average PRA, the individual PRA is *replaced* with 85 percent of the locality-adjusted national average PRA for that cost reporting period, and in future years the new PRA would be updated for inflation by the Consumer Price Index for All Urban Consumers (CPI–U) as compiled by the Bureau of Labor Statistics.

There may be some hospitals with both primary care and nonprimary care PRAs that are below the floor, and both PRAs are, therefore, replaced with 85 percent of the locality-adjusted national average PRA. In these situations, the hospitals would receive a single PRA; a distinction between PRAs would no longer be made for differences in inflation (under § 413.86(e)(3)(ii)). On the other hand, hospitals may have primary care PRAs that are above the floor, and nonprimary care PRAs that are below the floor. In these situations, only the nonprimary care PRAs would be revised to equal 85 percent of the locality adjusted national average PRA, and the prior year primary care PRAs would be updated for inflation by the CPI–U.

For example, if the FY 2002 locality-adjusted national average PRA for Area X is $100,000, then 85 percent of that amount is $85,000. If, in Area X, Hospital A has a primary care FY 2002 PRA of $84,000 and a nonprimary care FY 2002 PRA of $82,000, both of Hospital A's FY 2002 PRAs are replaced by the $85,000 floor. Thus, $85,000 is the amount that would be used to determine Hospital A's direct GME payments for both primary care and nonprimary care FTEs in its cost reporting period beginning in FY 2002, and the $85,000 PRA would be updated for inflation by the CPI-U in subsequent years. However, Hospital B, also located in Area X, has a primary care FY 2002 PRA of $86,000 and a nonprimary care FY 2002 PRA of $84,000. Thus, for Hospital B, only the nonprimary care PRA of $84,000 is replaced by the $85,000 floor. This new PRA of $85,000 would be updated for inflation by the CPI-U in subsequent years. Hospital B's primary care PRA of $86,000 and its nonprimary care PRA of $85,000 would be used to determine its direct GME payments in its cost reporting period beginning in FY 2002.

We note that section 511 of Public Law 106–554 only affects hospitals with PRAs below the 85-percent floor, and does not affect hospitals with PRAs that are either between the floor and ceiling or exceed the ceiling. Thus, with the exception of the change in the floor as provided by section 511, the policy regarding the use of a national average PRA for making direct GME payments remains as implemented in the regulations at § 413.86(e)(4).

We are proposing to amend § 413.86(e)(4)(ii)(C)(*1*) to add the rules implementing section 1886(h)(2)(D)(iii) of the Act as amended by section 511 of Public Law 106–554.

We also are proposing to amend § 413.86(e)(5) regarding the determination of base year PRAs for new teaching hospitals for cost reporting periods beginning during FYs 2001 through 2005. In the August 1, 2000 final rule, we made a conforming change to § 413.86(e)(5) to account for situations in which hospitals do not have a 1984 base year PRA and establish a PRA in a cost reporting period beginning on or after October 1, 2000. Existing § 413.86(e)(5)(iv) specifies that the new base year PRAs of such hospitals are subject to the regulations regarding the floor and the ceiling of the locality-adjusted national average PRA. Although the determination of new base year PRAs is subject to the national average methodology, it is not necessary to include this provision in the regulations. Therefore, we are proposing to remove § 413.86(e)(5)(iv).

We would like to clarify that, for purposes of calculating a base year PRA for a new teaching hospital, when calculating the weighted mean value of PRAs of hospitals located in the same geographic area or the weighted mean value of the PRAs in the hospital's census region (as defined in § 412.62(f)(1)(i)), the PRAs used in the weighted average calculation must not be less than the floors for cost reporting periods beginning during FY 2001 or FY 2002, or if they exceed the ceiling, they must either be frozen for FYs 2001 and 2002 or updated with the CPI-U minus 2 percent for FYs 2003 through 2005. In addition, existing § 413.86(e)(5) provides that the PRA for a new teaching hospital is based on the *lower of* the hospital's actual costs incurred in connection with the GME program or the weighted mean value of PRAs. For cost reporting periods beginning during FYs 2001 and 2005, the PRA for a new teaching hospital also would be subject to the floor and the ceiling of the national average PRA methodology. If a hospital's actual costs of the GME program during its cost reporting period beginning during FY 2001 or FY 2002 are *less* than the floors, the hospital's PRA would *not* be based on the actual costs. Instead, it would be equal to 70 percent in FY 2001, or 85 percent during FY 2002, of the locality-adjusted national average PRA. The floor applies to hospitals with existing PRAs in FYs 2001 and 2002, or to hospitals that are establishing new base year PRAs in FYs 2001 and 2002. We are proposing to clarify that if a hospital establishes a new base year PRA in a cost reporting period beginning *after* FY 2002, its PRA would *not* be increased to equal the floor if it is less than the floor. Similarly, the ceiling applies to hospitals with existing PRAS in FYs 2001 through 2005, or to hospitals that are establishing new base year PRAs in FYs 2001 through 2005.

3. Determining the 3-Year Rolling Average for Direct GME Payments (§ 413.86(g)(4) and (g)(5))

Section 1886(h)(4)(G)(iii) of the Act, as added by section 4623 of Public Law 106–33, provides that for the hospital's first cost reporting period beginning on or after October 1, 1997, the hospital's weighted FTE count for direct GME payment purposes equals the average of the weighted FTE count for that cost reporting period and the preceding cost reporting period. For cost reporting periods beginning on or after October 1, 1998, section 1886(h)(4)(G) of the Act requires that hospitals' direct medical education weighted FTE count for payment purposes equal the average of the actual weighted FTE count for the payment year cost reporting period and

the preceding two cost reporting periods (rolling average). This provision phases in the associated reduction in payment over a 3-year period for hospitals that are reducing their number of residents.

In the August 29, 1997 final rule with comment period (62 FR 46004), we revised § 413.86(g)(5) accordingly, and outlined the methodology for determining a hospital's direct GME payment. Based on what we explained in the 1997 final rule, for cost reporting periods beginning on or after October 1, 1997, we would determine a hospital's direct GME payment as follows:

Step 1. Determine the average of the weighted FTE counts for the payment year cost reporting period and the prior two immediately preceding cost reporting periods (with exception of the hospital's first cost reporting period beginning on or after October 1, 1997, which will be based on the average of the weighted average for that cost reporting period and the immediately preceding cost reporting period).

Step 2. Determine the hospital's direct GME amount without regard to the FTE cap (before determining Medicare's share). That is, take the sum of (a) the product of the primary care PRA and the primary care weighted FTE count in the current payment year, and (b) the product of the nonprimary care PRA and the nonprimary care weighted FTE count in the current payment year.

Step 3. Divide the hospital's direct GME amount by the total number of FTE residents (including the effect of weighting factors) for the cost reporting period to determine the weighted average PRA (this amount reflects the FTE weighted average of the primary and nonprimary care PRAs) for the cost reporting period.

Step 4. Multiply the weighted average PRA for the cost reporting period by the 3-year average weighted count to determine the hospital's allowable direct GME costs. This product is then multiplied by the hospital's Medicare patient load for the cost reporting period to determine Medicare's direct GME payment to the hospital.

Steps 2 and 3 above describe the methodology for combining a hospital's primary care PRA and nonprimary care PRA to determine the hospital's single weighted average PRA for the payment year cost reporting period. (This step accounts for hospitals that were training residents in both primary care and nonprimary care residency programs in FYs 1994 and 1995, when, as described in § 413.86(e)(3)(ii), each hospital's PRA for the previous cost reporting period was not adjusted for any resident FTEs who were not either a primary care resident or an obstetrics or a gynecology resident. As a result, such hospitals have two PRAs for direct GME payment; one for primary care and obstetrics and gynecology residents, and one for all other, or nonprimary care, residents. Hospitals that train either only primary care (including obstetrics and gynecology) residents or only nonprimary care residents follow the methodology described above, with the exception of combining two PRAs). Step 4 then dictates that the resulting average PRA is multiplied by the 3-year rolling average, which, in turn, is multiplied by the hospital's Medicare patient load in the current year to determine Medicare's direct GME payment to the hospital for that cost reporting period.

In implementing this provision in the August 29, 1997 final rule with comment period, we believed that the methodology described above was appropriate because it was consistent with the methodology described under section 1886(h)(3)(B) of the Act. This section specifies that, in order to arrive at the average PRA, or ''aggregate approved amount,'' HCFA must multiply a hospital's PRA by the ''weighted average number of [FTE] residents * * * in the hospital's approved medical residency training programs *in that period*'' (emphasis added).

We also believed the methodology outlined above and in the August 29, 1997 rule was appropriate because it was consistent with the intent of the statute that, after October 1, 1997, direct GME payments should be based on a rolling average. Specifically, section 4623 of Public Law 106–33 provides that, ''For cost reporting periods beginning on or after October 1, 1997 * * * *the total number of full-time equivalent residents for determining a hospital's graduate medical education payment shall equal the average* of the actual full-time equivalent resident counts for the cost reporting period and the preceding two cost reporting periods'' (emphasis added). Thus, while the statute does not include a specific methodology for computing the direct GME payments, it clearly indicates that the payment should be based on a 3-year average of the weighted number of residents, *not* the weighted number of residents in the current payment year cost reporting period.

As stated above, Congress provided that the direct GME payments should be made based on a 3-year average of the weighted number of residents in order to phase in the associated reduction in payment over a 3-year period for hospitals that are reducing the number of residents they are training. However, in steps 2 and 3 above, when combining a hospital's primary care PRA and nonprimary care PRA, we weight the respective PRAs by *current year* residents. This introduces the number of residents that a hospital is training in the *current cost reporting period* into the payment formula. A payment formula that incorporates the number of current year residents ''dilutes'' the effect of the rolling average as related to direct GME payments. After further consideration, we believe that, consistent with the statute, the formula should be based on rolling average counts of residents. We are proposing an alternative methodology in which the direct GME payment would be the sum of (a) the product of the primary care PRA and the primary care and obstetrics and gynecology rolling average, and (b) the product of the nonprimary care PRA and the nonprimary care rolling average. (This sum would then be multiplied by the Medicare patient load.) We note that IME payments would not be affected because, although they also are based on a 3-year rolling average, there is no distinction between primary care and nonprimary care residents.

The new methodology would be effective for cost reporting periods beginning on or after October 1, 2001. The proposed methodology for determining a hospital's direct GME payment is as follows:

Step 1. Determine that the hospital's total unweighted FTE counts in the payment year cost reporting period and the prior two immediately preceding cost reporting periods for all residents in allopathic and osteopathic medicine do not exceed the hospital's FTE cap for these residents in accordance with § 413.86(g)(4). If the hospital's total unweighted FTE count in a cost reporting period exceeds its cap, the hospital's weighted FTE count, for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of these FTE residents for that cost reporting period exceeds the unweighted FTE count in the cap. The proportional reduction is calculated *for primary care and obstetrics and gynecology residents and nonprimary care residents separately* in the following manner:

(FTE cap/unweighted total FTEs in the cost reporting period) × (weighted primary care and obstetrics and gynecology FTEs in the cost reporting period)

plus

(FTE cap/unweighted total FTEs in the cost reporting period) × (weighted nonprimary care FTEs in the cost reporting period).

Add the two products to determine the hospital's reduced cap.

Step 2. Determine the 3-year average of the weighted FTE count for primary care and obstetrics and gynecology residents in the payment year cost reporting period and the two immediately preceding cost reporting periods. Determine the 3-year average of the weighted FTE count for nonprimary care residents in the payment year cost reporting period and the two immediately preceding cost reporting periods.

Step 3. Determine the product of the primary care PRA and the primary care and obstetrics and gynecology 3-year average from step 2. Determine the product of the nonprimary care PRA and the nonprimary care 3-year average from step 2.

Step 4. Sum the products of step 3.

Step 5. Multiply the sum from step 4 by the hospital's Medicare patient load for the cost reporting period to determine Medicare's direct GME payment to the hospital.

Existing § 413.86(g)(5) specifies that residents in new programs are excluded from the rolling average calculation for a period of years equal to the minimum accredited length for the type of program, and are added to the payment formula after applying the averaging rules. Accordingly, for hospitals that qualify for an adjustment to their FTE caps for residents training in new programs under § 413.86(g)(6), primary care and obstetrics and gynecology residents in new programs would be added to the quotient of the primary care and obstetrics and gynecology 3-year average, and nonprimary care residents in new programs would be added to the quotient of the nonprimary care 3-year average. The sums of the respective 3-year averages and new residents would then be multiplied by the respective PRAs.

The following example illustrates the determination of direct GME payment under the proposed rolling average methodology for an existing teaching hospital with no new programs:

Example: Assume a hospital with a cost reporting period ending September 30, 1996 (beginning October 1, 1995) had 100 unweighted FTE residents and 90 weighted FTE residents. The hospital's FTE cap is 100 unweighted residents.

Step 1. In its cost reporting period beginning in FY 2000, it had 100 unweighted residents and 90 weighted residents (50 primary care and 40 nonprimary care).

- The hospital had 90 unweighted residents and 85 weighted residents (50 primary care and 35 nonprimary care) for its cost reporting period beginning in FY 2001.
- In its cost reporting period beginning in FY 2002, the hospital had 80 unweighted residents and 80 weighted residents (50 primary care and 30 nonprimary care).

Step 2. The 3-year average of weighted primary care and obstetrics and gynecology residents is (50 + 50 + 50)/3 = 50. The 3-year average of weighted nonprimary care residents is (40 + 35 + 30)/3 = 35.

Step 3. Primary care: $80,000 PRA × 50 weighted primary care and obstetrics and gynecology FTEs = $4,000,000. Nonprimary care: $78,000 × 35 weighted nonprimary care FTEs = $2,730,000.

Step 4. $4,000,000 + $2,730,000 = $6,730,000.

Step 5. If the hospital's Medicare patient load for the payment cost reporting period is .20, Medicare's direct GME payment would be $6,730,000 × .20 = $1,346,000.

Whether the proposed methodology results in a payment difference for a hospital is dependent upon whether or not the number and mix (primary care and nonprimary care) of FTEs changes in a 3-year period. If the number and mix of FTEs does not change in a 3-year period, there would be no difference in a direct GME payment amount derived using the proposed methodology versus the existing methodology. For example, if a hospital has 90 weighted FTEs (50 primary care and 40 nonprimary care) in the current year and the 2 previous years (using the PRAs and the Medicare patient load from the example above), the payment amounts derived from the existing methodology and the proposed methodology would be equal.

If the number and mix of FTEs varies from year to year, there will be a difference in the results of the two methodologies. In some instances the existing methodology would result in a higher payment, and in other instances the proposed methodology would result in a higher payment. In the example above, the hospital has reduced its number of weighted residents by 5 FTEs in FYs 2001 and 2002. Calculating this hospital's direct GME payment amount using the existing methodology (using the PRAs and the Medicare patient load from the example) would result in a payment of $1,347,250, which is $1,250 more than $1,346,000, the amount calculated in the example using the proposed methodology.

In a scenario where a hospital makes larger reductions to the number of FTEs, the proposed methodology may be more beneficial. For example, using the PRAs and the Medicare patient load from the example above, assume a hospital has 90 weighted FTEs (50 primary care and 40 nonprimary care) in FY 2000, 85 weighted FTEs (50 primary care and 35 nonprimary care) in FY 2001, and 70 weighted FTEs (35 primary care and 35 nonprimary care) in FY 2002. If the proposed methodology is used, the payment amount of $1,292,050 would be calculated, which is $1,666 more than $1,290,386, the amount calculated if the existing methodology is used.

We are proposing to revise § 413.86(g)(4) to specify that, effective for cost reporting periods beginning on or after October 1, 2001, if the hospital's total unweighted FTE count in a cost reporting period exceeds its cap, the hospital's weighted FTE count, for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of these FTE residents for that cost reporting period exceeds the unweighted FTE count in the cap. We also are proposing to revise § 413.86(g)(5) to specify that, effective for cost reporting periods beginning on or after October 1, 2001, the direct GME payment will be calculated using two separate rolling averages, one for primary care and obstetrics and gynecology residents and one for nonprimary care residents.

4. Counting Research Time as Direct and Indirect GME Costs (§§ 412.105 and 413.86)

It has come to our attention that there appears to be some confusion in the provider community as to whether the time that residents spend performing research is countable for the purposes of direct and indirect GME reimbursement. Although we are not proposing to make any policy changes in this proposed rule, we would like to reiterate our longstanding policy regarding time that residents spend in research and propose to incorporate this policy in the IME regulations.

Section 413.86(f) specifies that, for the purposes of determining the total number of FTE residents for the direct GME payment, residents in an approved program working in all areas of the hospital complex may be counted. Accordingly, the time the residents spend performing research as part of an approved program anywhere in the hospital complex may be counted for direct GME payment purposes. If the requirements listed at §§ 413.86(f)(3) and (f)(4) are met, a hospital may also count the time residents spend doing research in non-hospital settings for direct GME payment.

For purposes of determining the IME payment, § 412.105(f)(ii) specifies that

the time residents spend training in parts of the hospital that are subject to the inpatient prospective payment system, in the outpatient departments, or (effective on or after October 1, 1997, in accordance with §§ 413.86(f)(3) and (f)(4)) in nonhospital settings, may be counted. Section 2405.3.F.2. of the Provider Reimbursement Manual (PRM) further states that a resident must not be counted for the IME adjustment if the resident is engaged exclusively in research. Resident time spent ''exclusively'' in research means that the research is not associated with the treatment or diagnosis of a particular patient of the hospital. Therefore, although the research component may be part of an approved program, *the time that residents devote specifically to performing research that is not related to delivering patient care,* whether it occurs in the hospital complex or in non-hospital settings, *may not be counted for IME payment purposes.* ''Exclusively research'' time is not allowable for IME purposes irrespective of whether the resident is engaged only in research or spends only part of his or her time on research. Accordingly, time spent exclusively in research over the course of a program year should be subtracted from the total FTE for that year. For example, if a resident is required to spend 3 months in a particular program year engaged in research activities unrelated to delivering patient care, that amount of time should be subtracted from the total FTE, whether or not the research time is fulfilled in one block of time, or is distributed throughout the training year.

We note that in order to count residents for both direct GME and IME payment purposes, the residents' training must be part of an approved program. *This applies whether or not the residents are doing work that is clinical in nature.* There are situations where residents have completed their residency program requirements but remain for an additional period of time to continue their training (that is, to conduct research or other activities) outside the context of a formally organized approved program. As we explained in the September 29, 1989 final rule (54 FR 40306), these residents are *not* countable for direct GME or IME reimbursement. Rather, patient care services provided by these residents should be paid as Part B services.

We are proposing to amend § 412.105(f)(1)(iii) to add a paragraph (B) to incorporate language that reflects this policy.

5. Temporary Adjustments to FTE Cap To Reflect Residents Affected by Residency Program Closure

In the July 30, 1999 hospital inpatient prospective payment system final rule (64 FR 41522), we indicated that we would allow a temporary adjustment to a hospital's FTE resident cap under limited circumstances and if certain criteria are met when a hospital assumes the training of additional residents because of another hospital's closure. We made this change because hospitals had indicated a reluctance to accept additional residents from a closed hospital without a temporary adjustment to their caps. When we proposed this change 2 years ago, we received several comments suggesting that we include lost accreditation of a program (that is, a program's closure) in the temporary adjustment policy. We explained in our response to these comments (64 FR 41522) that we did not believe it was appropriate to expand our policy to cover any acts other than a hospital's closure. We made this decision because, unless the hospital terminates its Medicare agreement, the hospital would retain its statutory FTE cap and could affiliate with other hospitals to enable the residents to finish their training.

It has come to our attention that, despite a hospital's ability to affiliate with other hospitals when it shuts down a residency program, some hospitals for various reasons do not affiliate before their programs close, particularly when the program closes abruptly towards the end of the program year (the deadline to submit Medicare affiliation agreements is July 1 of the upcoming program year). Therefore, we are proposing that if a hospital that closes its residency training program agrees to temporarily reduce its FTE cap, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the former hospital's residency training program. For purposes of this proposed policy on closed programs, we are proposing to define ''closure of a hospital residency training program'' as when the hospital ceases to offer training for residents in a particular approved medical residency training program (proposed § 413.86(g)(8)(i)(B)). The methodology for adjusting the caps for the ''receiving hospital'' and the ''hospital that closed its program'' is described below.

a. *Receiving hospital.* We are proposing that a hospital(s) may receive a temporary adjustment to its (or their) FTE cap to reflect residents added because of the closure of another hospital's residency training program if—

- The hospital is training additional residents from the residency training program of a hospital that closed its program; and
- No later that 60 days after the hospital begins to train the residents, the hospital submits to its fiscal intermediary a request for a temporary adjustment to its FTE cap, documents that the hospital is eligible for this temporary adjustment by identifying the residents who have come from another hospital's closed program and have caused the hospital to exceed its cap, specifies the length of time the adjustment is needed, and submits to its fiscal intermediary a copy of the FTE cap reduction statement by the hospital closing the program, as specified in paragraph (g)(8)(iii)(B)(*2*).

In general, the above criteria we are proposing for the temporary adjustment are reflective of the criteria for the temporary adjustment for taking on the training of displaced residents from closed hospitals. We note that we are proposing that more than one hospital would be eligible to apply for the temporary adjustment, because residents from one closed program may go to different hospitals, or they may finish their training at more than one hospital. We also note that only to the extent a hospital would exceed its FTE cap by training displaced residents would it be eligible for the temporary adjustment.

Finally, we note that we are proposing that hospitals that meet the above proposed criteria would be eligible to receive temporary adjustments (for cost reporting periods beginning on or after October 1, 2001, for direct GME and with discharges beginning on or after October 1, 2001 for IME) for training the displaced residents from programs that closed even before the effective date of this policy. We mention this because hospitals may have closed programs in the recent past and the residents from the closed programs may not have completed their training as of the effective date of this policy. For instance, if a 5-year residency program, such as surgery, closed on July 1, 1997, the 5th program year residents may still be training during this residency year (2001). We are proposing that if both the receiving hospital(s) and the hospital that closed the program in this example follow the criteria described in this preamble, the receiving hospital may receive a temporary adjustment to its FTE cap for 9 months (October 1, 2001 through June 30, 2002) to accommodate the 5th year surgery residents. However, we note that hospitals would not be

eligible to receive a temporary adjustment for training the residents until the effective date of this rule.

b. *Hospital that closed its program(s).* We are proposing that a hospital that agrees to train residents who have been displaced by the closure of another hospital's program may receive a temporary FTE cap adjustment only if the hospital with the closed program(s)—

- Temporarily reduces its FTE cap by the number of FTE residents in each program year training in the program at the time of the program's closure. The yearly reduction would be determined by deducting the number of those residents who would have been training in the program year during each year had the program not closed; and
- No later than 60 days after the residents who were in the closed program begin training at another hospital, submits to its fiscal intermediary a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the hospital training the displaced residents to obtain a temporary adjustment to its cap; identifies the residents who were training at the time of the program's closure; identifies the hospitals to which the residents are transferring once the program closes; and specifies the reduction for the applicable program years.

Unlike the closed hospital policy at § 413.86(g)(8), we are proposing under this closed program policy (which we are proposing to amend § 413.86(g)(8) to include), that in order for the receiving hospital(s) to qualify for a temporary adjustment to its FTE cap, the hospitals that are closing their programs would need to reduce their FTE cap for the duration of time the displaced residents would need to finish their training. We are proposing this change because, as explained below, the hospital that closes the program still has the FTE slots in its cap, even if the hospital chooses not to fill the slots with residents. We believe it is inappropriate to allow an increase to the receiving hospital's cap without an attendant decrease to the cap of the hospital with the closed program, even if the increase is only temporary. We note that even under this proposed closed program policy, the hospital that closes its program may choose instead to affiliate with another hospital by July 1 of the next residency year so that the residents can more easily finish their training.

We are proposing that the cap reduction for the hospital with the closed program would be based on the number of FTE residents in each program year who were in the program at the program's closure, and who began training at another hospital, rather than the count of residents each year at the hospital(s) receiving the temporary adjustment(s). We believe it would be too burdensome administratively to require the hospital closing the program to keep track of the status of the residents when they are training at other hospitals. For instance, Joe Smith, a resident who is a PGY 1 when Hospital X closes its pathology residency program, may then finish his training at Hospital Y. The resident trains for one year at Hospital Y as a PGY 2, but decides to drop out of the program before finishing. It would be burdensome to require Hospital X to keep track of Joe Smith's status while he is training at Hospital Y for purposes of the reduction in Hospital X's cap. Therefore, we are proposing to ''freeze'' the basis for the reduction of the FTE cap of the hospital that closed the program based on the count and status of the residents when the hospital closes the program.

Example: Hospital A, which has a direct GME FTE cap of 20 FTEs and an IME FTE cap of 18 FTEs, is experiencing financial difficulties and decides to close down its internal medicine residency training program effective June 30, 2002. As of June 30, 2002, Hospital A is training 2 PGY 1s, 4 PGY 2s, and 6 PGY 3s in its internal medicine program. Hospitals B, C, and D take on the training of the displaced residents. These hospitals are eligible to receive temporary adjustments to their FTE caps if they follow the proposed criteria stated above. In order for Hospitals B, C, and D to receive the temporary adjustments, however, Hospital A must agree to reduce its FTE cap. According to the proposed criteria stated above, Hospital A's reduction would be:

July 1, 2002 through June 30, 2003

Direct GME FTE cap: 14 FTEs, (20 FTEs cap—2 PGY 2s—4 PGY 3s)

IME FTE cap: 12 FTEs (18 FTEs—2 PGY 2s—4 PGY 3s)

We note that no downward adjustment for the 6 PGY 3s for either cap is necessary since these residents will have completed their training in that program by the July 1, 2000 through June 30, 2003 program year.

July 1, 2003 through June 30, 2004

Direct GME FTE cap: 18 FTEs (20 FTEs cap—2 PGY 3s)

IME FTE cap: 16 FTEs (18 FTEs cap—2 PGY 3s)

July 1, 2004 through June 30, 2005

Direct GME FTE cap: 20 FTEs
IME FTE cap: 18 FTEs

We also are proposing to revise § 412.105(f)(1)(ix) to make the provision relating to the adjustment to FTE caps to reflect residents affected by closure of hospitals' medical residency training programs applicable to determining the IME payment.

6. Conforming Change to Regulations Governing Payment to Federally Qualified Health Centers (§ 405.2468(f))

We have discovered a technical error in the regulations at § 405.2468(f) regarding payment to federally qualified health centers (FQHCs) and rural health centers (RHCs) for the costs of graduate medical education. Specifically, § 405.2468(f)(6)(ii)(D) provides that ''The costs associated with activities described in § 413.85(d) of this chapter'' are not allowable graduate medical education costs. We recently amended § 413.85 in a final rule (66 FR 3358, January 12, 2001) regarding Medicare pass-through payment for approved nursing and allied health education programs. However, we inadvertently did not make a conforming change to § 405.2468(f)(6)(ii)(D). Section 405.2468(f)(6)(ii)(D) should read ''The costs associated with activities described in § 413.85(h) of this chapter.'' We are proposing to revise § 405.2468(f)(6)(ii)(D) to reflect this change.

V. Proposed Changes to the Prospective Payment System for Capital-Related Costs

A. End of the Transition Period

Federal fiscal year (FY) 2001 is the last year of the 10-year transition period established to phase in the prospective payment system for hospital capital-related costs. For the readers' benefit in this proposed rule, we are providing a summary of the statutory basis for the system, the development and evolution of the system, the methodology used to determine capital-related payments to hospitals, and the policy for providing exceptions payments during the transition period.

Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of inpatient hospital services ''in accordance with a prospective payment system established by the Secretary.'' Under the statute, the Secretary has broad authority in establishing and implementing the capital prospective payment system. We initially implemented the capital prospective payment system in the August 30, 1991 final rule (56 FR 43409), in which we

established a 10-year transition period to change the payment methodology for Medicare inpatient capital-related costs from a reasonable cost-based methodology to a prospective methodology (based fully on the Federal rate).

The 10-year transition period established to phase in the prospective payment system for capital-related costs is effective for cost reporting periods beginning on or after October 1, 1991 (FY 1992) and before October 1, 2001 (FY 2002). Beginning in FY 2001, the last year of the 10-year transition period for the prospective payment system for hospital capital-related costs, capital prospective payment system payments are based solely on the Federal rate for the vast majority of hospitals. Since FY 2001 is the final year of the capital transition period, we will no longer determine a hospital-specific rate for FY 2002 in section IV. of the Addendum of this proposed rule. For cost reporting periods beginning on or after October 1, 2001, payment for capital-related costs for all hospitals, except those defined as new hospitals under § 412.30(b), will be determined based solely on the capital standard Federal rate.

Generally, during the transition period, inpatient capital-related costs are paid on a per discharge basis, and the amount of payment depended on the relationship between the hospital-specific rate and the Federal rate during the hospital's base year. A hospital with a base year hospital-specific rate lower than the Federal rate is paid under the fully prospective payment methodology during the transition period. This method is based on a dynamic blend percentage of the hospital's hospital-specific rate and the applicable Federal rate for each year during the transition period. A hospital with a base period hospital-specific rate greater than the Federal rate is paid under the hold-harmless payment methodology during the transition period.

During the transition period, a hospital paid under the hold-harmless payment methodology receives the higher of (1) a blended payment of 85 percent of reasonable cost for old capital plus an amount for new capital based on a portion of the Federal rate; or (2) a payment based on 100 percent of the adjusted Federal rate. The amount recognized as old capital is generally limited to the allowable Medicare capital-related costs that were in use for patient care as of December 31, 1990. Under limited circumstances, capital-related costs for assets obligated as of December 31, 1990, but put in use for patient care after December 31, 1990, also may be recognized as old capital if certain conditions were met. These costs are known as obligated capital costs. New capital costs are generally defined as allowable Medicare capital-related costs for assets put in use for patient care after December 31, 1990.

Hospitals that are defined as ''new'' for the purposes of capital payments during the transition period (see § 412.300(b)) will continue to be paid according to the applicable payment methodology outlined in § 412.324. During the transition period, new hospitals are exempt from the prospective payment system for capital-related costs for their first 2 years of operation and are paid 85 percent of their reasonable capital-related costs during that period. The hospital's first 12-month cost reporting period (or combination of cost reporting periods covering at least 12 months), beginning at least 1 year after the hospital accepts its first patient, serves as the hospital's base period. Those base year costs qualify as old capital and are used to establish its hospital-specific rate used to determine its payment methodology under the capital prospective payment system. Effective with the third year of operation, the hospital will be paid under either the fully prospective methodology or the hold-harmless methodology. If the fully prospective methodology is applicable, the hospital is paid using the appropriate transition blend of its hospital-specific rate and the Federal rate for that fiscal year until the conclusion of the transition period, at which time the hospital will be paid based on 100 percent of the Federal rate. If the hold-harmless methodology is applicable, the hospital will receive hold-harmless payment for assets in use during the base period for 8 years, which may extend beyond the transition period.

The basic methodology for determining capital prospective payments based on the Federal rate is set forth in § 412.312. For the purpose of calculating payments for each discharge, the standard Federal rate is adjusted as follows:

(Standard Federal Rate) × (DRG Weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA Adjustment for Hospitals Located in Alaska and Hawaii) × (1 + DSH Adjustment Factor + IME Adjustment Factor)

Hospitals may also receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, under amendments to the Act enacted by section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate as specified in the regulations at § 412.374. For capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital-related costs.

In the August 30, 1991 final rule (56 FR 43409), we established a capital exceptions policy, which provided for exceptions payments during the transition period (§ 412.348). Section 412.348 provides that, during the transition period, a hospital may receive additional payment under the exceptions process when its regular payments are less than a minimum percentage, established by class of hospital, of the hospital's reasonable capital-related costs. The amount of the exceptions payment is the difference between the hospital's minimum payment level and the payments the hospital would have received under the capital prospective payment system in the absence of an exceptions payment. The comparison is made on a cumulative basis for all cost reporting periods during which the hospital has been subject to the capital prospective payment transition rules. The minimum payment percentages throughout the transition period for regular capital exceptions payments by class of hospitals are:

- For sole community hospitals, 90 percent;
- For urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2

percent or that received more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent;

• For all other hospitals, 70 percent of the hospital's reasonable inpatient capital-related costs.

The provision for regular exceptions payments expires at the end of the transition period, that is, on September 30, 2001. Capital prospective payment system payments are no longer adjusted to reflect regular exceptions payments at § 412.348 after that date. Accordingly, for cost reporting periods beginning on or after October 1, 2001, all hospitals other than those defined as ''new'' under § 412.300(b) will receive only the per discharge payment based on the Federal rate for capital costs (plus any applicable DSH or IME and outlier adjustments) unless a hospital qualifies for a special exceptions payment under § 412.348(g).

B. Special Exceptions Process

In the August 30, 1991 final rule (56 FR 43409), we established a capital exceptions policy at § 412.348, which provided for *regular* exception payments during the transition period. In the September 1, 1994 final rule (59 FR 45385), we added the *special* exceptions process, describing it as ''* * * narrowly defined, focusing on a small group of hospitals who found themselves in a disadvantaged position. The target hospitals were those who had an immediate and imperative need to begin major renovations or replacements just after the beginning of the capital prospective payment system. These hospitals would not be eligible for protection under the old capital and obligated capital provisions, and would not have been allowed any time to accrue excess capital prospective payments to fund these projects.''

Under the special exceptions provisions at § 412.348(g), an additional payment may be made through the 10th year beyond the end of the capital prospective payment system transition period for eligible hospitals that meet (1) a project need requirement as described at § 412.348(g)(2), which, in the case of certain urban hospitals, includes an excess capacity test; and (2) a project size requirement as described at § 412.348(g)(5). Eligible hospitals include sole community hospitals, urban hospitals with at least 100 beds that have a disproportionate share percentage of at least 20.2 percent, and hospitals with a combined Medicare and Medicaid inpatient utilization of at least 70 percent.

When we established the special exceptions process, we selected the hospital's cost reporting period beginning before October 1, 2001, as the project completion date in order to limit cost-based exceptions payments to a period of not more than 10 years beyond the end of the transition to the fully Federal capital prospective payment system. Therefore, hospitals are eligible to receive special exceptions payments for the 10 years after the cost reporting year in which they complete their project. Generally, if a project is completed in the hospital cost reporting period ending September 29, 2002, exceptions payments would continue through September 29, 2012. In addition, we believe that, for projects completed after the deadline, hospitals would have had the opportunity to reserve their prior years' capital prospective payment system payments for financing projects. We note that the August 1, 2000 final rule (65 FR 47095) incorrectly stated that special exceptions payments could extend through September 30, 2011; the date should have been September 29, 2012.

For each cost reporting period, the amount of the special exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to the prospective payment system. This comparison is offset or reduced by (1) any amount by which the hospital's cumulative payments exceed its cumulative minimum payments under the regular exceptions process for all cost reporting periods during which the hospital has been subject to the capital prospective payment system; and (2) any amount by which the hospital's current year Medicare inpatient operating and capital prospective payment system payments (excluding 75 percent of its operating DSH payments) exceed its Medicare inpatient operating and capital costs (or its Medicare inpatient margin). During the capital prospective payment system transition period, the minimum payment level under the regular exceptions process varied by class of hospital as set forth in § 412.348(c) and described in section V.A. of this preamble. After the transition period and for the duration of the special exceptions provision, the minimum payment level is 70 percent as set forth in § 412.348(g)(6).

In the July 31, 1998 final rule (63 FR 40999), we stated that a few hospitals had expressed concern with the required completion date of October 1, 2001, and other qualifying criteria for the special exceptions payment. Therefore, we solicited certain information from hospitals on major capital construction projects that might qualify for the capital special exceptions payments so we could determine if any changes in the special exceptions criteria or process were necessary. In the May 7, 1999 proposed rule (64 FR 24736), we reported that four hospitals had responded timely to our solicitation with information on their major capital construction projects. The hospitals submitted information about their location, the cost of the project, the date that the certificate of need approval was received, the start date of the project, and the anticipated completion date. Some hospitals also suggested changing a number of the requirements of the special exception provision.

When we issued the May 7, 1999 proposed rule, we had no specific proposal to revise the special exceptions process. However, we invited comments and suggestions from hospitals and other interested parties on the revision to the special exceptions process (64 FR 24738). We noted that, because the capital special exceptions process is budget neutral, any liberalization of the policy would require a commensurate reduction in the capital rate paid to all hospitals. That is, we will continue to make an adjustment to the capital Federal rate in a budget neutral manner to pay for exceptions as long as an exceptions policy is in force, just as we have for regular exceptions during the transition period. We also stated that, based on the comments we received, we may make changes to the special exceptions criteria in the final regulation or propose changes in the FY 2001 proposed rule.

In the July 30, 1999 final rule (64 FR 41526), we responded to the six comments we received on potential changes to the special exceptions process. In that same final rule, we also described our attempt to obtain information on hospital projects that might qualify for special exceptions payments in order to assess the impact of the recommended changes to the existing policy. In conjunction with the most recent cost report data readily available at that time (FY 1996), we attempted to estimate which of the hospital construction projects might qualify for special exception payments under the existing policy and how that universe of hospitals might change as a result of the recommended revisions to the special exceptions criteria.

Because exception payments to a hospital for a given cost reporting period are based on a percentage of the

capital costs incurred during the cost reporting period, we were unable to determine a precise estimate of the amount of payments to hospitals that might be eligible for special exceptions. In addition, hospitals are not eligible for special exception payments until the assets are put into use for patient care. Once eligibility for special exceptions payment has been demonstrated, it is some time before completed and settled cost reports are available to determine these payments.

Based on our research, we determined that it is difficult to predict whether particular hospitals will be able to meet all of the special exceptions eligibility criteria (DSH percentage, completion date, project size, and project need requirements) as well as qualify to receive special exception payments after taking into account the appropriate offsets, such as inpatient operating and capital margins. However, we believe that any changes to the special exceptions policy may affect a significant number of hospitals.

Based on our belief that these changes may have an impact on a significant number of hospitals, our evaluation of the comments, and careful consideration of all the issues, we stated in the July 30, 1999 final rule that the more appropriate forum for addressing changes to the capital special exceptions policy is the legislative process in Congress rather than the regulation process (64 FR 41528).

As we also indicated in the July 30, 1999 final rule (64 FR 41526), we have little information about the number of hospitals that may qualify for special exceptions payments or the projected dollar amount of special exception payments, because no hospitals are currently being paid under the special exceptions process. Until FY 2002, the special exceptions provision pays either the same as the regular exceptions process or less for high DSH and sole community hospitals. In accordance with § 412.348(g)(7), a qualifying hospital may receive additional payments for up to 10 years from the year in which it completes a project that meets the project need and project size requirements of the special exception provision in §§ 412.348(g)(2) through (g)(5). Because a qualifying project under the special exceptions provision at § 412.348(g) must be completed (put into use for patient care) by the end of the hospital's last cost reporting period beginning before the end of the transition period (September 30, 2001), a hospital may receive special exception payments for 10 years through September 30, 2012. For example, an eligible hospital that completes a qualifying project in October 1993 (FY 1994) will be eligible to receive special exception payments up through FY 2003 (September 30, 2003).

In order to assist our fiscal intermediaries in determining the end of the 10-year period in which an eligible hospital will no longer be entitled to receive special exception payments, we are proposing to add a new § 412.348(g)(9) to require that hospitals eligible for special exception payments under § 412.348(g) submit documentation to the intermediary indicating the completion date of their project (the date the project was put in use for patient care) that meets the project need and project size requirements outlined in §§ 412.348(g)(2) through (g)(5). We are proposing that, in order for an eligible hospital to receive special exception payments, this documentation would have to be submitted in writing to the intermediary by the later of October 1, 2001, or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed. For example, if a hospital completed a qualifying project in March 1995, it would be required to submit documentation to the intermediary by October 1, 2001. If a hospital with a 12-month cost reporting period beginning on July 1 completed a qualifying project in November 2001, it would be required to submit documentation to the intermediary no later than September 30, 2002, which is 3 months after the end of its 12-month cost reporting period that began on July 1, 2001.

C. Exceptions Minimum Payment Level

Section 412.348(h) limits the estimated aggregate amount of exceptions payments under both the regular exceptions and special exceptions process to no more than 10 percent of the total estimated capital prospective payment system payments in a given fiscal year. Consistent with the requirements for regular exceptions at § 412.348(c), we are proposing that if we estimate that special exception payments would exceed 10 percent of total capital prospective payment system payments for a given fiscal year, we will adjust the minimum payment level of 70 percent by one percentage point increments until the estimated payments are within the 10-percent limit. For example, we could set the minimum payment level at 69 percent to ensure that estimated aggregate special exceptions payments do not exceed 10 percent of estimated total capital prospective payment system payments. If the estimate of aggregate special exceptions payments were still projected to exceed 10 percent of total capital prospective payment system payments, we would continue reducing the minimum payment level by one percentage point increments until the requirements in § 412.348(h) were satisfied. We are proposing to revise § 412.348(g)(6) accordingly to reflect this policy.

D. Exceptions Adjustment Factor

Section 412.308(c)(3) requires that the standard capital Federal rate be reduced by an adjustment factor equal to the estimated proportion of additional payments for both regular exceptions and special exceptions under § 412.348 relative to total capital prospective payment system payments. In estimating the proportion of regular exceptions payments to total capital prospective payment system payments during the transition period, we used the model originally developed for determining budget neutrality (described in Appendix B of this proposed rule) to determine the exception adjustment factor, which was applied to both the Federal and hospital-specific rates. Below we describe our proposed methodology for determining the special exceptions adjustment used in establishing the Federal capital rate.

Under the special exceptions provision specified at § 412.348(g)(1), eligible hospitals include SCHs, urban hospitals with at least 100 beds that have a disproportionate share percentage of at least 20.2 percent or qualify for DSH payments under § 412.106(c)(2), and hospitals with a combined Medicare and Medicaid inpatient utilization of at least 70 percent. An eligible hospital may receive special exception payments if it meets (1) a project need requirement as described at § 412.348(g)(2), which, in the case of certain urban hospitals, includes an excess capacity test; (2) an age of assets test as described at § 412.348(g)(3); and (3) a project size requirement as described at § 412.348(g)(5).

In order to determine the estimated proportion of special exceptions payments to total capital payments, we attempted to identify the universe of eligible hospitals that may potentially qualify for special exception payments. First, we identified hospitals that met the eligibility requirements at § 412.348(g)(1). Then we determined each hospital's average fixed asset age in the earliest available cost report starting in FY 1992 and later. For each of those hospitals, we calculated the average fixed asset age by dividing the

accumulated depreciation by the current year's depreciation. In accordance with § 412.348(g)(3), a hospital must have an average age of buildings and fixed assets above the 75th percentile of all hospitals in the first year of capital prospective payment system. In the September 1, 1994 final rule (59 FR 45385), we stated that, based on the June 1994 update of the cost report files in HCRIS, the 75th percentile for buildings and fixed assets for FY 1992 was 16.4 years. However, we noted that we would make a final determination of that value on the basis of more complete cost report information at a later date. In the August 29, 1997 final rule (62 FR 46012), based on the December 1996 update of HCRIS and the removal of outliers, we finalized the 75th percentile for buildings and fixed assets for FY 1992 as 15.4 years. Thus, we eliminated any hospitals from the potential universe of hospitals that may qualify for special exception payments if its average age of fixed assets did not exceed 15.4 years.

For the hospitals remaining in the potential universe, we estimated project-size by using the fixed capital acquisitions shown on Worksheet A7 from the following HCRIS cost reports updated through December 2000.

PPS year	Cost reports periods beginning in
IX	FY 1992
X	FY 1993
XI	FY 1994
XII	FY 1995
XIII	FY 1996
XIV	FY 1997
XV	FY 1998
XVI	FY 1999

Because the project phase-in may overlap 2 cost reporting years, we added together the fixed acquisitions from sequential pairs of cost reports to determine project size. Under § 412.348(g)(5), the project-size must meet the following requirements: (1) $200 million; or (2) 100 percent of its operating cost during the first 12-month cost reporting period beginning on or after October 1, 1991. We calculated the operating costs from the earliest available cost report starting in FY 1992 and later by subtracting inpatient capital costs from inpatient costs (for all payers). We did not subtract the direct medical education costs as those costs are not available on every update of the HCRIS minimum data set. If the hospital met the project size requirement, we assumed that it also met the project need requirements at § 412.348(g)(2) and the excess capacity test for urban hospitals at § 412.348(g)(4).

Because we estimate that so few hospitals will qualify for special exceptions, projecting costs, payments, and margins would result in high statistical variance. Consequently, we decided to model the effects of special exceptions using historical data based on hospitals' actual cost experiences. If we determined that a hospital may qualify for special exceptions, we modeled special exceptions payments from the project start date through the last available cost report (FY 1999). For purposes of modeling we used the cost and payment data on the cost reports from HCRIS assuming that special exceptions would begin at the start of the qualifying project. In other words, when modeling costs and payment data, we ignored any regular exception payments that these hospitals may otherwise have received as if there had not been regular exceptions during the transition period. In projecting an eligible hospital's special exception payments, we applied the 70-percent minimum payment level, the cumulative comparison of current year capital prospective payment system payments and costs, and the cumulative operating margin offset (excluding 75 percent of operating DSH payments).

Because hospitals may receive regular exception payments up through the end of their last cost reporting period beginning before October 1, 2001, hospitals with cost reporting periods beginning on a day other than October 1 will continue to receive regular exception payments until the end of their FY 2002 cost reporting period. Therefore, these hospitals will only receive special exception payments for the remainder of Federal FY year 2002. Consequently, the special exceptions payments made in FY 2002 will be less than for subsequent years since they are only being paid a special exception payment for a portion of FY 2002.

Our modeling of special exception payments produced the following results:

Cost report	Number of hospitals eligible for special exceptions	Special exceptions as a fraction of capital payments to all hospitals	Special exceptions as a fraction of capital payments to all hospitals weighted by portion of FY 2002 for which special exceptions are paid
PPS IX	.....	.....	.....
PPS X	.....	.....	.....
PPS XI	3	.....	.....
PPS XII	6	0.0002	0.0001
PPS XIII	8	0.0001	0.0000
PPS XIV	14	0.0002	0.0001
PPS XV	18	0.0016	0.0002
PPS XVI	22	0.0011	0.0008

Currently, the PPS XVI cost reports in HCRIS are incomplete because there is a 2-year lag time between the end of a hospital's cost reporting period and the submission and processing of the cost reports for HCRIS. In particular, hospitals whose cost reporting periods begin July 1 are missing. We expect more hospitals to qualify for special exceptions once data from later HCRIS updates are available. In addition, hospitals still have two more cost reporting periods (PPS XVII and PPS XVIII) to complete their projects in order to be eligible for special exceptions. We estimate that about 30 additional hospitals could qualify for special exceptions. Thus, we project

that special exception payments as a fraction of capital payments to all hospitals could be approximately 0.0025. However, after weighting this amount to account for the FY 2002 phase-in of special exception payments, we project that this factor would be approximately 0.0012. Because special exceptions are budget neutral, we propose to offset the Federal capital rate by 0.12 percent for special exceptions for FY 2002. Therefore, the proposed exceptions adjustment factor would equal 0.9988 (1 minus 0.0012) to account for special exception payments in FY 2002. We will revise this projection of the special exception adjustment factor in the final rule based on the latest available data.

VI. Proposed Changes for Hospitals and Hospital Units Excluded From the Prospective Payment System

A. Limits on and Adjustments to the Target Amounts for Excluded Hospitals and Units (§§ 413.40(b)(4) and (g))

1. Updated Caps for Existing Hospitals and Units

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) established caps on the target amounts for certain existing hospitals and units excluded from the prospective payment system for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. The caps on the target amounts apply to the following three classes of excluded hospitals: psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals.

In addition, section 4416 of Public Law 105–33 limited payments for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals that first received payments on or after October 1, 1997. Payment for these hospitals and units is limited to the lesser of the hospital's operating costs per case or 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated and adjusted for differences in area wage levels.

A discussion of how the caps on the target amounts and the payment limitation were calculated can be found in the August 29, 1997 final rule with comment period (62 FR 46018); the May 12, 1998 final rule (63 FR 26344); the July 31, 1998 final rule (63 FR 41000), and the July 30, 1999 final rule (64 FR 41529). For purposes of calculating the caps for existing facilities, the statute required the Secretary to estimate the national 75th percentile of the target amounts for each class of hospital (psychiatric, rehabilitation, or long-term care) for cost reporting periods ending during FY 1996 without adjusting for differences in area wage levels. Under section 1886(b)(3)(H)(iii) of the Act, the resulting amounts are updated by the market basket percentage to the applicable fiscal year.

Section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to also provide for an appropriate wage adjustment to the caps on the target amounts for existing psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. On August 1, 2000, we published an interim final rule with comment period that implemented this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000 (65 FR 47026) and a final rule that implemented this provision for cost reporting periods beginning on or after October 1, 2000 (65 FR 47054). This proposed rule addresses the wage adjustment to the caps and payment limitations for cost reporting periods beginning on or after October 1, 2001.

For purposes of calculating the caps, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first ''estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.'' Furthermore, section 1886(b)(3)(H)(iii), as added by Public Law 106–113, requires the Secretary to also provide for existing hospitals ''an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account the differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.''

Consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment, we account for differences in wage-related costs by adjusting the caps to account for the following:

First, we adjust each hospital's target amount to account for area differences in wage-related costs. For each class of hospitals (psychiatric, rehabilitation, and long-term care), we determine the labor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the labor-related portion of costs (or 0.71553). Similarly, we determine the nonlabor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the nonlabor-related portion of costs (or 0.28447).

Next, we account for wage differences among hospitals within each class by dividing the labor-related portion of each hospital's target amount by the hospital's wage index under the hospital inpatient prospective payment system. Within each class, each hospital's wage-neutralized target amount was calculated by adding the wage-neutralized labor-related portion of its target amount and the nonlabor-related portion of its target amount. Then, the wage-neutralized target amounts for hospitals within each class were arrayed in order to determine the national 75th percentile caps on the target amounts for each class.

Taking into account the national 75th percentile of the target amounts for cost reporting periods ending during FY 1996 (wage-neutralized using the FY 2000 acute care wage index), the wage adjustment provided for under Public Law 106–113, and the applicable update factor based on the market basket percentage increase for FY 2001, in the August 1, 2000 final rule (65 FR 47096), we established the FY 2001 caps on the target amounts as follows:

Class of excluded hospital or unit	FY 2001 labor-related share	FY 2001 nonlabor-related share
Psychiatric	$8,131	$3,233
Rehabilitation	15,164	6,029
Long Term Care	29,284	11,642

In reviewing our methodology for wage neutralizing the hospital specific target amounts, it appears that we incorrectly used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585 through 41593), which is based on wage data after taking into account geographic reclassification under section 1886(d)(8) of the Act. We are proposing to revise the methodology of wage neutralizing the hospital-specific target amounts using pre-reclassified wage data. We propose to recalculate the limit for new excluded hospitals and units, as well as calculate the cap for existing excluded hospitals and units, using the pre-reclassification wage index. The pre-reclassification wage index is the same wage index used under the prospective payment system for skilled nursing facilities (SNFs) and was included in Table 7 of the July 30, 1999 SNF final rule (64 FR 41690). (We note that both SNFs and ambulatory surgical centers use the prospective payment system inpatient wage index

without regard to the prospective payment system reclassification as a proxy for variations in local costs.)

As we stated in the August 1, 2000 final rule, long-term care hospitals, rehabilitation hospitals and units, and psychiatric hospitals and units that are exempt from the prospective payment system are not subject to the prospective payment system hospital reclassification system under section 1886(d)(10)(A) of the Act. This section establishes the MGCRB for the purpose of evaluating applications from short-term, acute care providers. There is no equivalent statutory mandate for HCFA to develop an alternative board for long-term care hospitals, psychiatric hospitals and units, and rehabilitation hospitals and units. In addition, while it would be feasible to allow units physically located in prospective payment system hospitals that have been reclassified by the MGCRB to use the wage index for the area to which that hospital has been reclassified, at the present time there is no process in place to make reclassification determinations for freestanding excluded providers. There are approximately 1,000 freestanding excluded providers. Therefore, in the interest of equity, we believe that, in determining a hospital's wage-adjusted cap on its target amount, it is appropriate for excluded hospitals and units to use the wage index associated with the area in which they are physically located (MSA or rural area) and the prospective payment system reclassification under section 1886(d)(10) of the Act is not applicable. This policy is also consistent with the policy for SNFs and ambulatory surgical centers that use the acute care, inpatient hospital prospective payment system wage index and that does not allow for reclassifications since there is no analogous determinations process to the MGCRB. The MGCRB only has authority over the prospective payment system for acute care hospitals.

Therefore, based on the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment to the caps, we have determined the labor-related and nonlabor-related portions of the proposed caps on the target amounts for FY 2002 using the methodology outlined above.

Class of excluded hospital or unit	FY 2002 proposed labor-related share	FY 2002 proposed nonlabor-related share
Psychiatric	$8,404	$3,341
Rehabilitation	15,689	6,237
Long-Term Care	31,399	12,483

These labor-related and nonlabor-related portions of the proposed caps on the target amounts for FY 2002 are based on the current estimate of the market basket increase for excluded hospitals and units for FY 2002 of 3.0 percent and reflect the change in applying the pre-reclassified hospital inpatient prospective payment system wage index as discussed above. Furthermore, in accordance with section 307(a) of Public Law 106–554, which amended section 1886(b)(3) of the Act, the labor-related and nonlabor-related portions of the proposed cap for long-term care hospitals for FY 2002 are increased by 2 percent. We are providing a further discussion of this provision in an interim final rule with comment period that will implement provisions of Public Law 106–554 for FY 2001 and for periods in FY 2001 from April 1, 2001 through September 30, 2001 (HCFA–1178–IFC).

Finally, to determine payments described in § 413.40(c), the cap on the hospital's target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap. A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the hospital's applicable wage index. For FY 2002, a hospital's applicable wage index is the pre-reclassified wage index under the hospital inpatient prospective payment system (see § 412.63). The proposed wage index values are computed based on the same data used to compute the proposed FY 2002 wage index values for the hospital inpatient prospective payment system without taking into account changes in geographic reclassification under section 1886(d)(8)(B) of the Act for certain rural hospitals or reclassifications based on MGCRB decisions or the Secretary's decisions under sections 1886(d)(8) through (d)(10) of the Act. For cost reporting periods beginning on or after October 1, 2001 and before October 1, 2002, the pre-reclassified wage index is in Tables 4G and 4H of this proposed rule. A hospital's applicable wage index corresponds to the area in which the hospital or unit is physically located (MSA or rural area).

2. New Excluded Hospitals and Units

a. Updated Caps (§ 413.40(f))

Section 1886(b)(7) of the Act establishes a payment methodology for new psychiatric hospitals and units, new rehabilitation hospitals and units, and new long-term care hospitals. Under the statutory methodology, for a hospital that is within a class of hospitals specified in the statute and first receives payments as a hospital or unit excluded from the prospective payment system on or after October 1, 1997, the amount of payment will be determined as follows: For the first two 12-month cost reporting periods, the amount of payment is the lesser of (1) the operating costs per case; or (2) 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated to the first cost reporting period in which the hospital receives payments as adjusted for differences in area wage levels.

As discussed earlier, in reviewing our methodology for wage neutralizing the hospital-specific target amounts, it appears we incorrectly used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule, which is based on wage data after taking into account geographic reclassifications under section 1886(d)(8) of the Act. Therefore, we also are proposing to revise the methodology of wage neutralizing the hospital-specific target amounts using pre-reclassified wage data in our calculation of the limit for new excluded hospitals and units.

The proposed amounts included in the following table reflect the updated and recalculated 110 percent of the wage neutralized national median target amounts for each class of excluded hospitals and units for cost reporting periods beginning during FY 2002. These figures are updated to reflect the projected market basket increase of 3.0 percent. For a new provider, the labor-related share of the target amount is multiplied by the appropriate geographic area wage index, without regard to prospective payment system reclassifications, and added to the nonlabor-related share in order to determine the per case limit on payment under the statutory payment methodology for new providers.

Class of excluded hospital or unit	FY 2002 proposed labor-related share	FY 2002 proposed nonlabor-related share
Psychiatric	$6,795	$2,701
Rehabilitation	13,425	5,337

Class of excluded hospital or unit	FY 2002 proposed labor-related share	FY 2002 proposed nonlabor-related share
Long-Term Care	16,651	6,620

b. Changes in Type of Hospital Classification (§§ 412.23 and 412.25)

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) establishes caps on the target amounts for existing psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. Section 4416 of Public Law 105–33 amended section 1886(b)(7) of the Act to provide for a limitation on payment for new excluded psychiatric hospitals and units, new rehabilitation hospitals and units, and new long-term care hospitals. Since the establishment of the caps on target amounts and the payment limitations, there has been an increase in the number of hospitals requesting a change from one classification type to another (for example, from rehabilitation to long-term care). Regulations at § 412.22(d) state that ''For purposes of exclusion from the prospective payment systems under this subpart, the status of each currently participating hospital (excluded or not excluded) is determined at the beginning of each cost reporting period and is effective for the entire cost reporting period. Any changes in the status of the hospital are made only at the start of a cost reporting period.'' Even though the existing regulations directly address only a hospital that changes from a prospective payment system hospital to an excluded hospital, our longstanding policy has been that a change of any classification type can be effective only at the beginning of the provider's cost reporting period. Although the existing regulations do not directly address changes in a classification type of excluded hospital, we believe that a change from one classification type of excluded hospital to another type of excluded hospital is analogous to a change from a prospective payment system hospital to an excluded hospital. Therefore, we believe it would be consistent with our longstanding policy to amend our regulations to specify that a change from one excluded hospital classification type to another type is allowed only at the beginning of the hospital's cost reporting period.

The rationale underlying our present policy of requiring that these types of changes should only be effective at the beginning of the cost reporting period is the need to avoid any undue (and possibly significant) administrative burden that could result from doing otherwise (for example, cost allocation, cost reporting requirements, certification issues). If we were to accept changes in an excluded hospital's classification type from one type of classification to another, other than at the beginning of the cost reporting period, the hospital would need to file a terminating cost report with respect to its original classification as well as file a separate cost report for the remainder of the cost reporting period with respect to its new classification. Filing these cost reports would involve gathering the appropriate cost data, allocating the data, and apportioning the data between the two hospital classes. Additionally, we would have to validate the cost reports. To allow these types of changes in the middle of a cost reporting period would result in a significant administrative burden. We would point out that this burden is applicable equally for either a change from a prospective payment system hospital to an excluded hospital, or a change from one excluded hospital classification type to another classification type. Therefore, we are proposing to amend the regulations to provide that the effective date of any of these classification changes is only at the beginning of a provider's cost reporting period (proposed § 412.23(i), for excluded hospitals, and proposed § 412.25(f), for excluded units).

3. Effective Date of Exclusion of Long-Term Care Hospitals

Existing regulations at § 412.23(e) require a newly established long-term care hospital to operate for at least 6 months with an average length of stay in excess of 25 days in order to qualify for exclusion from the inpatient hospital prospective payment system as a long-term care hospital. Other regulations at § 412.22(d) allow changes in a hospital's status from not excluded to excluded to occur only at the start of a cost reporting period. These two regulations, taken together, typically require a hospital to operate for at least 6 months under the prospective payment system before becoming eligible for payment at the more favorable rate under section 1886(b)(3) of the Act.

These regulations were challenged in litigation by a chain organization that operates a large number of long-term care hospitals (*Transitional Hospital Corporation of Louisiana, Inc.* v. *Shalala*, 222 F.3d 1019 (D.C. Cir. 2000) (*THC*)). Although the court of appeals in this case found that the Secretary has ample authority to adopt current regulatory provisions, it also concluded that the Secretary has not adequately considered other policy options. Consequently, it remanded the case to the agency for the agency to consider whether it wanted to continue its existing policy or adopt a policy of either ''self-certification'' or ''retroactive adjustment.'' Generally, under a self-certification approach, hospitals that have not yet demonstrated the required average length of stay would be excluded from the prospective payment system based on a commitment to maintain such a length of stay. Under a retroactive adjustment approach, a hospital's long-term care classification would be made effective with the beginning of the 6-month period in which it demonstrated the required average length of stay. Payments for that period initially would be made under the prospective payment system and then adjusted retroactively to amounts payable for an excluded long-term care hospital once length of stay was successfully established.

As directed by the court of appeals, we are reviewing the issues raised in this case in light of the court's decision, and are specifically considering the options of self-certification and retroactive adjustment. Our current proposals and the alternatives we considered before arriving at them are set forth below. To assist us in completing the review process, we are requesting public comment on our proposals, taking into account the following considerations.

a. Demonstrating Required Average Length of Stay

Although we understand that we have discretion to select other policy options, we are proposing to continue our policy of requiring hospitals seeking long-term care hospital classification to demonstrate the required average length of stay based on 6 months of data, instead of permitting these hospitals to ''self-certify'' the required average length of stay.

We note that the statute provides the agency with broad authority to determine the methodology by which facilities can qualify for exclusion as long-term care hospitals (section 1886(d)(1)(B)(iv)(I) of the Act specifies that ''a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days'' qualifies for exclusion as a long-term care hospital). As the court of appeals decided, the parenthetical phrase *as determined by the Secretary* ''gives the Secretary considerable leeway to determine whether to require

prospective, contemporaneous, or retrospective evaluation and payment.'' (*THC* at 1026.)

Although we have considered the self-certification option, we do not believe that it is appropriate to permit long-term care hospitals to self-certify. Long-term care hospitals ''are licensed as acute care hospitals in the States in which they operate [and] their only distinguishing characteristic is their long average length of stay'' (ProPAC March 1, 1997 Report and Recommendations to the Congress, Recommendation 30). For this reason, and because average length of stay can be difficult, if not impossible, to forecast when a new hospital first opens its doors for service, it would not be appropriate to allow new hospitals to self-certify that they will have an average length of stay exceeding 25 days.

Requiring newly participating hospitals to collect at least 6 months of length of stay data before permitting them to qualify as long-term care hospitals is consistent with treatment of other types of excluded hospitals in the regulations. Like long-term care hospitals, children's hospitals, which by statute are also excluded from the prospective payment system, also have just one distinguishing characteristic from acute care hospitals; namely, having inpatients who are predominantly individuals under 18 years of age (section 1886(d)(1)(B)(iii) of the Act). As with long-term care hospitals, we do not permit children's hospitals to self-certify that they will meet this requirement as to a future cost reporting period (§ 412.23(d)).

Although we permit rehabilitation hospitals to self-certify that they meet certain elements of the definition for such a hospital, important differences between rehabilitation hospitals and long-term care hospitals render such a scheme inappropriate for the latter. The differences in the two types of excluded hospitals begin with the statute, which excludes from the prospective payment system ''a rehabilitation hospital (as defined by the Secretary)'' and ''a hospital which has an average inpatient length of stay (as defined by the Secretary) of greater than 25 days''; that is, a long-term care hospital (sections 1886(d)(1)(B)(ii) and 1886(d)(1)(B)(iv)(I) of the Act). Thus, Congress delegated broad authority to the Secretary to define rehabilitation hospitals, but provided the definition of long-term care hospitals in the statute itself (and then, as discussed above, gave the agency broad authority to determine how to apply that definition).

In exercising our authority to define a rehabilitation hospital, we promulgated regulations that contain several defining features that a facility must possess to be considered such a hospital, as opposed to the one statutorily mandated feature (average length of stay) that defines long-term care hospitals (§ 412.23(b)). The requirements that a rehabilitation hospital must meet include a showing that 75 percent of its patients are of a certain type, the existence of a preadmission screening process, assurance that patients will receive close medical supervision and that the hospital will furnish certain types of therapy through the use of qualified personnel, the presence of a director of rehabilitation with certain qualifications, evidence of a plan of treatment for each inpatient that is established and monitored by a physician, and the use of a coordinated interdisciplinary team approach in the rehabilitation of each patient (§ 412.23(b)(1) through (b)(7)). With the exception of the ''75 percent rule,'' all of these requirements are ''characteristics of the patients and types of services that the facility furnishes'' that ''can be assessed at a given point in time'' (ProPAC March 1, 1997 Report and Recommendations to the Congress, Recommendation 30).

Thus, rehabilitation hospitals are defined primarily by static and observable features, most of which can be accurately assessed when a new rehabilitation hospital is first certified under the Medicare program. As a result, the regulations permit a new rehabilitation hospital to provide written certification that it will meet the 75 percent rule, provided we find that it also meets the six other elements of the definition of a rehabilitation facility (§ 412.23(b)(8)). The hospital's demonstrated ability to meet the six remaining requirements provides an adequate level of assurance that the hospital will also meet the 75-percent requirement if it so certifies. No such assurance is available, however, regarding whether a hospital might, during a future period, meet the sole requirement for qualification as a long-term care hospital—the average length of stay of its patients.

b. Effective Date of Exclusion From the Prospective Payment System

Because we propose to continue our policy of not allowing a hospital to self-certify the required average length of stay in order to be paid as an excluded long-term care hospital, it is necessary to consider the effective date of excluded status for a hospital that has demonstrated the required average length of stay. We considered making long-term care classification effective retroactively with the beginning of the 6-month period in which the hospital demonstrated the required average length of stay. Doing so would mean, for example, that a hospital that admitted its first patient on January 1, 2001, and demonstrated that its average length of stay exceeded 25 days for the period January 1 through June 30, and that was approved for long-term care classification on July 15, would be paid for its discharges from January 1, 2001 forward as an excluded long-term care hospital rather than under the prospective payment system, as long as it continued to demonstrate the requisite average length of stay. However, we believe that such retroactive application of excluded status is inappropriate.

For the reasons below, we are proposing to continue our policy that a hospital's payment as a long-term care hospital would be effective with the beginning of the hospital's cost reporting period that follows the determination to classify the hospital as a long-term care hospital. From the first rulemaking implementing the inpatient acute hospital prospective payment system payment methodology, the agency has generally applied decisions regarding various elements of the prospective payment system payment methodology prospectively only, and the courts have upheld that action. (*THC* at 1022 (''status'' decisions regarding whether a hospital is subject to or excluded from the prospective payment system); *County of Los Angeles* v. *Shalala* 192 F.3d 1005 (D.C. Cir. 1999) (decisions regarding criteria for receipt of ''outlier'' payments); *Methodist Hospital of Sacramento* v. *Shalala,* 38 F.3d 1225 (D.C. Cir. 1994) (decisions to revise ''wage index'' component of the prospective payment system payment rate); *Hennepin County* v. *Sullivan,* 883 F.2d 85, 91 (D.C. Cir. 1989) (''there is nothing inherently arbitrary or capricious about an agency's decision to apply new data prospectively only''); 57 FR 39746 and 39798 (1992).)

For the same reasons that existed in the cases cited above, we believe that prospective implementation of the statutory exclusion for long-term care hospitals is fully consistent with Congress' goals in enacting the prospective payment system. It allows both the hospital and us to know with certainty at the beginning of each cost reporting period of the hospital whether the hospital is subject to or excluded from the prospective payment system for that cost reporting period and thus

promotes certainty and predictability of payment for both providers and the agency. *County of Los Angeles* at 1019; *Methodist Hospital of Sacramento* at 1232 (''because the Secretary's prospectivity policy permits hospitals to rely with certainty on one additional element in the PPS calculation rate * * * the Secretary could reasonably conclude that it will promote efficient and realistic cost saving targets'').

Moreover, retroactive application of a prospective payment system excluded status decision would entail a significant administrative burden as it would require reprocessing of large numbers of a hospital's claims for hospital inpatient services. See 49 FR 234 and 271 (1984) (making retroactive changes in decisions regarding providers' status as ''sole community hospitals'' would require us ''to reprocess every inpatient hospital claim submitted for the hospital and make adjustment payments at the new rate). It is reasonable to conclude that such a burden outweighs any ''increase in accuracy that would result'' from retroactive application of decisions regarding long-term care hospital exclusions (*Methodist Hospital of Sacramento* at 1233).

Finally, we apply our prospective-only policy evenhandedly, regardless of whether it results in a hospital's being subject to, or excluded from, the prospective payment system. Thus, retroactive adjustments in hospitals' status are as likely to hurt providers that slip below the required average length of stay during a cost reporting period as they are to help them by furnishing reimbursement for a past period in which they met that requirement (*Methodist Hospital of Sacramento* at 1232, 1233). Any adverse effect of the prospective only policy that might be perceived by new long-term care facilities is also lessened by the availability of a short initial cost reporting period and outlier payments for extraordinarily lengthy cases during the initial period when the hospital is subject to the prospective payment system.

In addition to believing that it is appropriate to make payment as a long-term care hospital effective prospectively rather than retroactively, we believe it is also appropriate to continue our policy of making payment effective with the beginning of the hospital's next cost reporting period rather than as of the date of approval of long-term care status. This policy is consistent with how we treat changes in status (that is, from excluded to nonexcluded or from nonexcluded to excluded) for all types of hospitals. As we explain in more detail in section VI.A.2.b of this proposed rule, the rationale for requiring changes in a hospital's status, or changes in a hospital's classification (that is, from one type of excluded hospital to another), only at the start of the hospital's cost reporting period is to alleviate the administrative burden and potential confusion that would result from doing otherwise.

As noted earlier, we request public comments on the proposals described above.

4. Development of Prospective Payment System for Inpatient Rehabilitation Hospitals and Units

Section 1886(j) of the Act, as added by section 4421 of Public Law 105–33, provided the phase-in of a case-mix adjusted prospective payment system for inpatient rehabilitation services (freestanding hospitals and units) for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2002, with a fully implemented system for cost reporting periods beginning on or after October 1, 2002. Section 1886(j) of the Act was amended by section 125 of Public Law 106–113 to require the Secretary to use the discharge as the payment unit under the prospective payment system for inpatient rehabilitation services and to establish classes of patient discharges by functional-related groups. Section 305 of Public Law 106–554 further amended section 1886(j) of the Act to allow hospitals to elect to be paid the full Federal prospective payment rather than the transitional period payments specified in the Act.

On November 3, 2000, we issued a notice of proposed rulemaking in the **Federal Register** (65 FR 66303) on the proposed establishment of the prospective payment system for inpatient rehabilitation facilities, to be effective on April 1, 2001. Due to the scope and complexity of the proposed system and requests from the public for more time to comment on the proposed rule, we extended the public comment period for an additional 30 days, from January 3, 2001 to February 1, 2001. As a result of the extension of the comment period, it would have been technically impossible to publish a final rule 60 days prior to implementing the prospective payment system for rehabilitation facilities by April l. We anticipate publication of a final rule in May 2001 and intend to announce our plans for implementation at that time.

B. Critical Access Hospitals (CAHs)

1. Exclusion of CAHs From Payment Window Requirements

Section 1886 of the Act specifies the requirements governing payment to full-service hospitals for the operating costs of inpatient hospital services under both the inpatient hospital prospective payment system and the limits on the target amounts for hospitals excluded from the prospective payment system. ''Operating costs of inpatient hospital services'' are defined in section 1886(a)(3) of the Act, which provides in part that costs of certain services provided to a beneficiary during the 3 days (or in the case of an excluded hospital or unit, during the 1 day) immediately preceding the patient's admission are to be included in the payments for costs under the inpatient hospital prospective payment system, or the target amount for excluded hospitals and units. This part of the definition is sometimes referred to as the ''payment window'' requirement. Regulations implementing the payment window requirement are found at § 412.2(c)(5) for hospitals subject to the prospective payment system, and § 413.40(c)(2) for hospitals excluded from the prospective payment system.

Payment to CAHs for inpatient services is not made under section 1886 of the Act, nor are CAHs considered to be hospitals excluded from the inpatient hospital Prospective Payment System. Instead, payment is made on a reasonable cost basis, as mandated by section 1814(l) of the Act. Neither section 1814(l) nor section 1861(v) of the Act (which defines ''reasonable cost'') requires application of the payment window to services furnished on an outpatient basis immediately before admission to a CAH. Therefore, we have determined that the payment window provision does not apply to CAHs. To clarify this point and avoid possible misapplication of the payment window, we are proposing to amend § 413.70(a)(l) to provide that the requirements of §§ 412.2(c)(5) and 413.40(c)(2) do not apply to CAHs.

2. Availability of CRNA Pass-Through for CAHs

Generally, anesthesia services furnished to a hospital patient by a certified registered nurse anesthetist (CRNA) must be billed to the Part B carrier and payment is made under the applicable fee schedule provisions of § 414.60. However, certain rural hospitals that furnish no more than 500 surgical procedures requiring anesthesia per year and meet other specified requirements are exempted from the fee

schedule. These hospitals are paid on a reasonable cost basis for their costs of anesthesia services furnished by qualified nonphysician anesthetists. The exemption is provided in accordance with section 9320(k) of the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509) (as added by section 608(c)(2) of the Family Support Act of 1988 (Public Law 100–185), as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239)). HCFA has codified this exemption at § 412.113(c).

Although § 412.113(c) does not specifically extend eligibility for the pass-through payment for CRNAs to CAHs, some CAHs have pointed out that they are similar to the rural hospitals that are eligible for this payment, in that they also furnish low volumes of surgical procedures requiring anesthesia and could face the same problem of potentially inadequate payment for CRNA services if they are not allowed to qualify for the pass-through payment. We share this concern.

We recognize that the legislation cited above, which provides the legal basis for the pass-through payments, refers only to ''hospitals,'' not to CAHs. Moreover, section 1861(e) of the Act states that ''the term ''hospital'' does not include, unless the context otherwise requires, a critical access hospital * * *.'' It is clear from section 1861(e) of the Act that CAHs are not to be considered hospitals under the Medicare law for most purposes. However, the reference to ''context'' in the provision indicates that CAHs may be classified as hospitals where, in specific contexts, it would be consistent with the purpose of the legislation to do so.

We believe this is the case with the statutory provisions authorizing pass-through payments for CRNA costs. The purpose of the pass-through legislation is to provide small rural hospitals with low surgical volumes with relief from the difficulties they might otherwise have in furnishing CRNA services for their patients. CAHs are by definition limited'service facilities located in rural areas and, as such, they serve a population much like those served by hospitals eligible for the pass-through payments. In some cases, an institution that now participates as a CAH may even have been eligible for the pass-through payments when it participated as a hospital. Such an institution would clearly be disadvantaged if it were to lose this status. Thus, in accordance with section 1861(e) of the Act and in light of the context of the pass-through legislation cited above, we consider CAHs to be ''hospitals'' for purposes of extending eligibility for the CRNA pass-through payments to them.

Therefore, we are proposing to add a new § 413.70(a)(3) and revise §§ 413.70(a)(2), (b)(1), and (b)(6) to permit CAHs that meet the criteria for the pass-through payments in § 412.113(c) to qualify for pass-through payments for the costs of anesthesia services for both inpatient and outpatient surgeries, on the same basis as full service rural hospitals. As an unrelated technical correction, we are proposing to revise § 413.70(b)(2)(i)(C) to delete the incorrect reference to § 413.130(j)(2) and replace it with a reference to reduction in capital costs under § 413.130(j). We also are proposing to revise § 412.113(c) by changing the term ''hospital'' to ''hospital or CAH''.

3. Payment to CAHs for Emergency Room On-Call Physicians (Proposed § 413.70(b)(4))

Under section 1834(g) of the Act, Medicare payment to a CAH for facility services to Medicare outpatients is the reasonable costs of the CAH in providing such services. The term ''reasonable cost'' is defined in section 1861(v) of the Act and in regulations at 42 CFR Part 413, including, with specific reference to CAHs, § 413.70. Consistent with the general policies stated in section 2109 of the Medicare Provider Reimbursement Manual (PRM), Part I (HCFA Publication 15–1), the reasonable cost of CAH services to outpatients may include reasonable costs of compensating physicians who are on standby status in the emergency room (that is, physicians who are present and ready to treat patients if necessary). However, under existing policy, the reasonable cost of CAH services to outpatients may not include any costs of compensating physicians who are not present in the facility but are on call.

Section 204 of Public Law 106–554 further amended section 1834(g) of the Act (as amended by section 201 of Public Law 106–554) by adding a new paragraph (5). New section 1834(g)(5) of the Act provides that, in determining the reasonable costs of outpatient CAH services under sections 1834(g)(1) and 1834(g)(2)(A) of the Act, the Secretary shall recognize as allowable costs amounts (as defined by the Secretary) for reasonable compensation and related costs for emergency room physicians who are on call (as defined by the Secretary) but who are not present on the premises of the CAH involved, are not otherwise furnishing physicians' services, and are not on call at any other provider or facility. The provisions of section 204 of Public Law 106–554 are effective for cost reporting periods beginning on or after October 1, 2001.

To implement the provisions of section 1834(g)(5) of the Act, we are proposing to add a new paragraph (4) to § 413.70(b). The proposed § 413.70(b)(4) would permit the reasonable costs of CAH outpatient services to include the reasonable compensation and related costs of emergency room on-call physicians under the terms and conditions specified in the statute. As directed in the statute, under § 413.70(b)(4)(ii)(A) of this proposed rule, we are defining ''amounts for reasonable compensation and related costs'' as those allowable costs of compensating emergency room physicians for being on call, to the extent these costs are found to be reasonable under the rules in § 413.70(b)(2).

In addition, as specified under § 413.70(b)(4)(ii)(A) of this proposed rule, we are defining an ''emergency room physician who is on call'' as a doctor of medicine or osteopathy with training or experience in emergency care who is immediately available by telephone or radio contact, and who is available on site within the timeframes specified in our existing regulations under § 485.618(d). Existing § 485.618(d) specifies that the physician must be available on site (1) within 30 minutes, on a 24-hour a day basis, if the CAH is located in an area other than an area described in item (2); or (2) within 60 minutes, on a 24-hour a day basis, if all of the following requirements are met:

- The CAH is located in an area designated as a frontier area (that is, an area with fewer than six residents per square mile based on the latest population data published by the Bureau of the Census) or in an area that meets criteria for a remote location adopted by the State in its rural health care plan, and approved by HCFA, under section 1820(b) of the Act.
- The State has determined under criteria in its rural health care plan that allowing an emergency response time longer than 30 minutes is the only feasible method of providing emergency care to residents of the area served by the CAH.
- The State maintains documentation showing that the response time of up to 60 minutes at a particular CAH it designates is justified because other available alternatives would increase the time needed to stabilize a patient in an emergency.

We also believe that it is essential that physicians who are paid to be in on-call status in fact come to the facility when

summoned. Therefore, we are proposing to specify that costs of on-call emergency room physicians are allowable only if the costs are incurred under written contracts that require them to come to the CAH when their presence is medically required.

4. Treatment of Ambulance Services Furnished by Certain Critical Access Hospitals (Proposed § 413.70(b)(5))

Under section 1861(s)(7) of the Act, Medicare Part B covers and pays for ambulance services, to the extent prescribed in regulations, when the use of other methods of transportation would be contraindicated. Various Congressional reports indicate that Congress intended that (1) the ambulance benefit cover transportation services only if other means of transportation are contraindicated by the beneficiary's medical condition; and (2) only ambulance services to local facilities be covered unless necessary services are not available locally, in which case, transportation to the nearest facility furnishing those services is covered. (H.R. Rept. No. 89–213, 89th Cong., 1st Sess. at 37 (1995) and S. Rept. No. 89–404, 89th Cong., 1st Sess., Pt. I, at 43 (1995).)

The Medicare program currently pays for ambulance services on a reasonable cost basis when furnished by a provider and on a reasonable charge basis when furnished by a supplier. (The term ''provider'' includes all Medicare-participating institutional providers that submit claims for Medicare ambulance services (hospitals, CAHs, SNFs, and home health agencies). The term ''supplier'' means an entity that is independent of any provider. The reasonable charge methodology that is the basis of payment for ambulance services is determined by the lowest of the customary, prevailing, actual, or inflation indexed charge.

Section 4531(a)(1) of Public Law 105–33 amended section 1861(v)(1) of the Act and imposed an additional per trip limitation on reasonable cost payment to hospitals and CAHs for ambulance service. As amended, the statute provides that, in determining the reasonable cost of ambulance services furnished by a provider of services, the Secretary shall not recognize the cost per trip in excess of the prior year's reasonable cost per trip updated by an inflation factor. This trip limit provision was first effective for services furnished during Federal fiscal year 1998 (October 1, 1997 through September 30, 1998).

Section 205 of Public Law 106–554 amended section 1834(l) of the Act by adding a new paragraph (8) to that section. New section 1834(l)(8) provides that the Secretary is to pay the reasonable costs incurred in furnishing ambulance services if such services are furnished by a CAH (as defined in section 1861(mm)(1) of the Act), or by an entity owned or operated by the CAH. This provision in effect eliminates any trip limit that CAHs had been subject to as a result of section 1861(v)(1) of the Act, as amended by Public Law 105–33. However, section 205 further states that in order to receive reasonable cost reimbursement for the furnishing of ambulance services, the CAH or entity must be the only provider or supplier of ambulance services located within a 35-mile drive of the CAH. Section 205 is effective for services furnished on or after December 21, 2000, the date of enactment of Public Law 106–554.

To implement the provisions of section 1834(l)(8) of the Act, we are proposing to add a new paragraph (5) to § 413.70(b). Proposed § 413.70(b)(5) would permit a CAH, or an entity owned or operated by a CAH, to be paid for furnishing ambulance services on a reasonable cost basis if the CAH or entity is the only provider or supplier of ambulance services within a 35-mile drive of the CAH. In determining whether there is any other provider or supplier of ambulance services within a 35-mile drive of a CAH or entity, we would first identify the site where the nearest other ambulance provider or supplier garages its vehicles, and then determine whether that site is within 35 miles, calculated as the shortest distance in miles measured over improved roads. An improved road for this purpose would be defined as any road that is maintained by a local, State, or Federal government entity, and is available for use by the general public. Consistent with the change we are proposing in § 412.92(c)(1) relating to SCH determinations (as explained in section IV. of this preamble), we would consider improved roads to include the paved surface up to the front entrance of the hospital and, for purposes of § 413.70(b)(5), the front entrance of the garage.

5. Qualified Practitioners for Preanesthesia and Postanesthesia Evaluation in CAHs

Section 1820 of the Act sets forth the conditions for designating certain hospitals as CAHs. Implementing regulations for section 1820 of the Act are located in 42 CFR part 485, Subpart F. Among the conditions of participation regulations for CAHs in subpart F is the condition for surgical services (§ 485.639). Existing § 485.639 specifies that preanesthesia and postanesthesia services in a CAH can only be performed by a doctor of medicine or an osteopathic practitioner; a doctor of dental surgery or dental medicine; or a doctor of podiatric medicine. This Medicare condition of participation requirement regarding preanesthesia and postanesthesia evaluations for CAHs differs from, and is more restrictive than, the current requirement for acute care hospitals in general. In an acute care hospital, the CRNA is listed among the practitioners who may perform the preanesthesia and postanesthesia evaluations.

Our principal consideration in regulating providers is to ensure patient safety and high quality patient outcomes. As circumstances and health care environments change, we reassess regulations and propose changes accordingly.

When the regulations for the initial Rural Primary Care Hospital (RPCH) program (which later became the CAH program) were adopted, RPCHs were limited to patient stays of no more than 72 hours and to bed counts of no more than 6 acute care beds. We initially viewed RPCHs as very limited-service facilities that would be unlikely to perform any surgery beyond what might be done in a physician's office; therefore, we did not have a condition of participation for surgery. Section 102(a)(1) of the Social Security Amendments of 1994, Public Law 103–432, specifically authorized surgical care in RPCHs. In June 1995, we proposed a surgical condition of participation that incorporated the ambulatory surgery center (ASC) standards. We expected that the types of procedures done in a RPCH would most likely be those that could be done in ASCs. At the time, we received no comments in response to the proposed standards and therefore adopted them in the final RPCH conditions of participation that were published on September 1, 1995 (60 FR 45851).

In 1997, the RPCH (now CAH) program was expanded through a statutory change to include all States and to allow for an increase in bed size and length of stay (August 29, 1997 final rule, 62 FR 46035). Since that time, the program's original conditions of participation have been revised to remove possible barriers to access to care. One example of this effort is the final rule to eliminate the Federal requirement for physician supervision of CRNAs in CAHs as well as acute care hospitals and ASCs that was published in the **Federal Register** on January 18, 2001 (66 FR 96570).

Recently, provider and medical groups have suggested that CAHs may

be at risk of losing the ability to provide access to appropriate surgical services without the full support of available CRNAs. They indicated that the existing regulations place the responsibility of the preanesthesia and postanesthesia evaluations on the operating practitioner, thereby creating a higher standard for CAHs than for other hospitals.

In an effort to eliminate or minimize potential access issues in rural areas and to recognize the CAH's program expansion, we are proposing to revise § 485.639(b) to allow CRNAs to perform preanesthesia and postanesthesia evaluations in a CAH. As with any licensed independent health care provider, the proposed change would not permit CRNAs to practice beyond his or her licensed scope of practice or the approved policies and procedures of the CAH.

6. Clarification of Location Requirements for CAHs

Under section 1820(c)(2)(B)(i) of the Act, a facility seeking designation by the State as a CAH must meet two distinct types of location requirements. First, the facility must either be actually located in a county or equivalent unit of local government in a rural area, as defined in section 1886(d)(2)(D) of the Act, or it must be located in an urban area as defined in section 1886(d)(2)(D) of the Act, but be treated as being located in a rural area under section 1886(d)(8)(E) of the Act. Second, the facility must also be located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or similar facility described in section 1820(c) of the Act, or it must be certified by the State as being a necessary provider of health care services to residents in the area. Implementing regulations for these provisions were published in an interim final rule with comment period in the **Federal Register** on August 1, 2000 (65 FR 47026) and are set forth at § 485.610(b).

Recently, concern has been expressed that § 485.610(b) does not accurately reflect the fact that a facility may satisfy the ''rural location'' requirement either by actually being located in a rural area or by being located in an urban area but qualifying for treatment as rural under section 1886(d)(8)(E) of the Act. In addition, we have received questions as to whether a potential CAH must meet both the rural location requirement and the requirement for location relative to other facilities (or certification by the State as a ''necessary provider'').

To avoid any further confusion, and ensure that our regulations reflect the provisions of the law accurately, we are proposing to revise § 485.610(b) to clarify that a potential CAH must either be actually located in a rural area, or be treated as being rural under section 1886(d)(8)(E) of the Act. In addition, we are proposing to place the provisions of the existing § 485.610(b)(5) in a newly created paragraph (c) entitled, ''Location relative to other facilities or necessary provider certification''. We are proposing to relocate this provision in order to clarify that these criteria are separate from the rural location criteria. These proposed changes do not reflect any change in policy; they are merely an attempt to improve the clarity of the regulations.

VII. MedPAC Recommendations

We have reviewed the March 1, 2001 report submitted by MedPAC to Congress and have given it careful consideration in conjunction with the proposals set forth in this document. Recommendation 5A concerning the update factor for inpatient hospital operating costs and for hospitals and hospital distinct-part units excluded from the prospective payment system are discussed in Appendix D to this proposed rule. Other MedPAC recommendations and our responses are set forth below.

A. Accounting for New Technology in Hospital Prospective Payment Systems (Recommendations 3D and 3E)

Recommendation 3D: For the inpatient payment system, the Secretary should develop formalized procedures for expeditiously assigning codes, updating relative weights, and investigating the need for patient classification changes to recognize the costs of new and substantially improved technologies.

Response: Section 533 of Public Law 106–554 directs the Secretary to develop a mechanism for ensuring adequate payment under the hospital inpatient prospective payment system for new medical services and technologies, and to report to Congress on ways to more expeditiously incorporate new services and technologies into that system. The discussion relating to new medical services and technologies is found in section II.D. of this proposed rule and addresses MedPAC's concern regarding the process of assigning new codes. In addition, MedPAC acknowledges, and we agree, that the process of updating the relative weights has an established track record.

MedPAC states that a more formal system for assigning codes and investigating the need for DRG changes would have enabled the current system to more adequately respond to new technology. Although we believe the current process for assigning new codes has the advantage of being well-understood, the proposed new process we described in section II. of this proposed rule should improve the ability of the system to respond to the introduction of new technology.

Recommendation 3E: Additional payments in the inpatient payment system should be limited to new or substantially improved technologies that add significantly to the cost of care in a diagnosis related group and should be made on a budget-neutral basis.

Response: Section 533 of Public Law 106–554 directed the Secretary to establish a mechanism to make these payments beginning with discharges on or after October 1, 2001, and we are proposing implementation of this provision under section IV.F. of this proposed rule.

B. Occupational-Mix Adjusted Wage Index for FY 2005 (Recommendation 4)

Recommendation: To implement an occupation-mix adjusted wage index in FY 2005, the Secretary should collect data on wage rates by occupation in the fiscal year 2002 Medicare cost reports. Hospital-specific wage rates for each occupation should be supplemented by data on the mix of occupations for each provider type. The Secretary also should continue to improve the accuracy of the wage index by investigating differences in wages across areas for each type of provider and in the substitution of one occupation for another.

Response: We are proposing to collect occupational mix data from hospitals through a supplemental survey to the cost report for cost reporting periods beginning during FY 2001. A more complete discussion of our proposed methodology can be found in section III. of this proposed rule.

C. Financial Performance and Inpatient Payment Issues (Recommendations 5B, 5C, and 5D)

Recommendation 5B: In collecting sample patient-level data, HCFA should seek to balance the goals of minimizing payment errors and furthering understanding of the effects of coding on case-mix change.

Response: The sample data referred to by MedPAC is the Payment Error Prevention Program (PEPP) Surveillance Sample. These data are collected to monitor the payment error rate for Medicare inpatient prospective payment system services and provide outcome data to measure PROs' performance in

reducing payment errors in their respective States. This information can be appropriately weighted to reflect the true distribution of DRGs nationally. The sample data supplant the DRG validation sample that MedPAC used in its original 1996 through 1998 estimates. The current PEPP Surveillance Sample doubles the size of the earlier DRG validation sample. It is comprised of approximately 60,000 cases per year. We believe this is a sufficient number of cases to both monitor case-mix index changes and PRO performance on payment error reduction.

Recommendation 5C: Although the Benefits Improvement and Protection Act of 2000 improved the equity of the hospital disproportionate share adjustment, Congress still needs to reform this adjustment by:

- Including the costs of all poor patients in calculating low-income shares used to distribute disproportionate share payments; and
- Using the same formula to distribute payments to all hospitals covered by prospective payment.

Response: HCFA is participating a Medicare Technical Advisory Group workgroup concerning technical issues related to the collection of uncompensated care data relative to the Medicare disproportionate share formula. A worksheet and instructions to collect these data will be sent out for prior consultation this summer for revisions to the cost reports applicable for cost reporting periods beginning on or after October 1, 2001.

Recommendation 5E: The Congress should protect urban hospitals from the adverse effect of nearby hospitals being reclassified to areas with higher wage indexes by computing each area's wage index as if none of the hospitals located in the area had been reassigned.

Response: With this rule, HCFA has proposed to include the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located. We agree with MedPAC and believe that this will provide consistency and predictability in hospital reclassification and wage indices.

D. Specialties With Training Beyond the Initial Residency Period (Recommendation 10)

Recommendation: The Congress should eliminate the weighting factors that currently determine Medicare's direct graduate medical education payments and count all residencies equally through completion of residents' first specialty or combined program and subspecialty if one is pursued. Residents training longer than the minimum number of years required for board eligibility in a specialty, combined program, or subspecialty should not be included in hospitals' direct graduate medical education resident counts. These policy changes should be implemented in a budget-neutral manner through adjustments to the per resident payment amounts.

Response: Currently, Medicare payments to hospitals for direct GME is dependent, in part, on the initial residency period of the residents. Generally, the initial residency period is defined at § 413.86(g)(1) as the minimum number of years required for board eligibility, not to exceed 5 years. For purposes of determining the direct GME payment, residents are weighted at 1.0 FTE within the initial residency period, and at .5 FTE beyond the initial residency period. The limitation on the initial residency period was designed by Congress to limit full Medicare direct GME payment to the time required to train in a single specialty.

MedPAC states that Medicare's current direct GME payment policy of limiting full funding to the first specialty in which a resident trains provides a disincentive for hospitals to offer training in subspecialties or combined programs, and therefore, may influence hospitals' decisions on the types of residents that they train. MedPAC believes that Medicare should not influence workforce policy and recommends that the disincentive be removed to make Medicare payments policies neutral with regard to programs with prerequisites, subspecialties, and combined programs. Accordingly, MedPAC recommends that Congress eliminate the weighting factors associated with direct GME payment so that all residents would be counted for full direct GME payment through the completion of their first specialty, combined program, or subspecialty. Residents training beyond the minimum number of years required for board eligibility in a specialty, combined program, or subspecialty should not be counted for purposes of the direct GME payment.

MedPAC also believes that eliminating the weighting factors could potentially increase Medicare's direct GME payments by approximately 5 to 8 percent. Therefore, MedPAC recommends that hospitals' per resident amounts (PRAs), which are used to calculate the direct GME payment, be reduced so that this change can be implemented, to the extent possible, in a budget-neutral manner. MedPAC explains that, although further research is needed, it appears that hospitals with substantial subspecialty training (that is, at least 15 percent of the resident mix) would likely see a small net increase in payments, despite the reduction to the PRAs, while hospitals that do not have subspecialty training would likely see a small decrease in payments.

In response to MedPAC's recommendation, we question MedPAC's estimate that eliminating the weighting factors could increase Medicare direct GME payments by only 5 to 8 percent. We believe that subspecialty training constitutes a significant portion of all GME programs, and, consequently, the elimination of the weighting factors could potentially increase payments by far more than 8 percent. If budget neutrality is to be maintained, this could mean that the attendant reductions to the PRAs could be much greater than MedPAC might assume. For those teaching hospitals that have substantial subspecialty training, there is no guarantee that the decreases in the PRAs will be offset by the increases in the direct GME payments due to the elimination of the weighting factors.

While the recommendation would remove the existing disincentive for training in subspecialties, we believe the reductions to the PRAs, whether they are minimal or more significant, will be far more detrimental to the smaller teaching hospitals that have little or no subspecialty training. Many of these hospitals provide care to beneficiaries in rural, underserved areas and in nonhospital settings. We believe these conditions may discourage the expansion of residency training in these areas. It may be inappropriate to limit the direct GME funding to such hospitals, considering Congress' initiatives to encourage residency training in rural, underserved areas and in nonhospital settings. We also are unclear as to how MedPAC would implement the proposed reduction to the PRAs. MedPAC did not explain in its recommendation how it would propose to do this.

VIII. Other Required Information

A. Requests for Data From the Public

In order to respond promptly to public requests for data related to the prospective payment system, we have established a process under which commenters can gain access to raw data on an expedited basis. Generally, the data are available in computer tape or cartridge format; however, some files are available on diskette as well as on the Internet at http://www.hcfa.gov/stats/pubfiles.html. Data files, and the cost for each, are listed below. Anyone wishing to purchase data tapes, cartridges, or

diskettes should submit a written request along with a company check or money order (payable to HCFA–PUF) to cover the cost to the following address: Health Care Financing Administration, Public Use Files, Accounting Division, P.O. Box 7520, Baltimore, Maryland 21207–0520, (410) 786–3691. Files on the Internet may be downloaded without charge.

1. Expanded Modified MedPAR–Hospital (National)

The Medicare Provider Analysis and Review (MedPAR) file contains records for 100 percent of Medicare beneficiaries using hospital inpatient services in the United States. (The file is a Federal fiscal year file, that is, discharges occurring October 1 through September 30 of the requested year.) The records are stripped of most data elements that would permit identification of beneficiaries. The hospital is identified by the 6-position Medicare billing number. The file is available to persons qualifying under the terms of the Notice of Proposed New Routine Uses for an Existing System of Records published in the **Federal Register** on December 24, 1984 (49 FR 49941), and amended by the July 2, 1985 notice (50 FR 27361). The national file consists of approximately 11 million records. Under the requirements of these notices, an agreement for use of HCFA Beneficiary Encrypted Files must be signed by the purchaser before release of these data. For all files requiring a signed agreement, please write or call to obtain a blank agreement form before placing an order. Two versions of this file are created each year. They support the following:

- Notice of Proposed Rulemaking (NPRM) published in the **Federal Register**. This file, scheduled to be available by the end of April, is derived from the MedPAR file with a cutoff of 3 months after the end of the fiscal year (December file).
- Final Rule published in the **Federal Register**. The FY 2000 MedPAR file used for the FY 2002 final rule will be cut off 6 months after the end of the fiscal year (March file) and is scheduled to be available by the end of April.

Media: Tape/Cartridge
File Cost: $3,655.00 per fiscal year
Periods Available: FY 1988 through FY 2000

2. Expanded Modified MedPAR-Hospital (State)

The State MedPAR file contains records for 100 percent of Medicare beneficiaries using hospital inpatient services in a particular State. The records are stripped of most data elements that will permit identification of beneficiaries. The hospital is identified by the 6-position Medicare billing number. The file is available to persons qualifying under the terms of the Notice of Proposed New Routine Uses for an Existing System of Records published in the December 24, 1984 **Federal Register** notice, and amended by the July 2, 1985 notice. This file is a subset of the Expanded Modified MedPAR-Hospital (National) as described above. Under the requirements of these notices, an agreement for use of HCFA Beneficiary Encrypted Files must be signed by the purchaser before release of these data. Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**. This file, scheduled to be available by the end of April, is derived from the MedPAR file with a cutoff of 3 months after the end of the fiscal year (December file).
- Final Rule published in the **Federal Register**. The FY 2000 MedPAR file used for the FY 2002 final rule will be cut off 6 months after the end of the fiscal year (March file) and is scheduled to be available by the end of April.

Media: Tape/Cartridge
File Cost: $1,130.00 per State per year
Periods Available: FY 1988 through FY 2000

3. HCFA Wage Data

This file contains the hospital hours and salaries for FY 1998 used to create the proposed FY 2002 prospective payment system wage index. The file will be available by the beginning of February for the NPRM and the beginning of May for the final rule.

Processing year	Wage data year	PPS fiscal year
2001	1998	2002
2000	1997	2001
1999	1996	2000
1998	1995	1999
1997	1994	1998
1996	1993	1997
1995	1992	1996
1994	1991	1995
1993	1990	1994
1992	1989	1993
1991	1988	1992

These files support the following:

- NPRM published in the **Federal Register**.
- Final Rule published in the **Federal Register**.

Media: Diskette/most recent year on the Internet
File Cost: $165.00 per year
Periods Available: FY 2002 PPS Update

4. HCFA Hospital Wages Indices (Formerly: Urban and Rural Wage Index Values Only)

This file contains a history of all wage indices since October 1, 1983.

Media: Diskette/most recent year on the Internet
File Cost: $165.00 per year
Periods Available: FY 2002 PPS Update

5. PPS SSA/FIPS MSA State and County Crosswalk

This file contains a crosswalk of State and county codes used by the Social Security Administration (SSA) and the Federal Information Processing Standards (FIPS), county name, and a historical list of Metropolitan Statistical Area (MSA).

Media: Diskette/Internet
File Cost: $165.00 per year
Periods Available: FY 2002 PPS Update

6. Reclassified Hospitals New Wage Index (Formerly: Reclassified Hospitals by Provider Only)

This file contains a list of hospitals that were reclassified for the purpose of assigning a new wage index. Two versions of these files are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final Rule published in the **Federal Register**.

Media: Diskette/Internet
File Cost: $165.00 per year
Periods Available: FY 2002 PPS Update

7. PPS–IV to PPS–XII Minimum Data Set

The Minimum Data Set contains cost, statistical, financial, and other information from Medicare hospital cost reports. The data set includes only the most current cost report (as submitted, final settled, or reopened) submitted for a Medicare participating hospital by the Medicare fiscal intermediary to HCFA. This data set is updated at the end of each calendar quarter and is available on the last day of the following month.

Media: Tape/Cartridge
File Cost: $770.00 per year

	Periods beginning on or after	And before
PPS–IV	10/01/86	10/01/87
PPS–V	10/01/87	10/01/88
PPS–VI	10/01/88	10/01/89
PPS–VII	10/01/89	10/01/90
PPS–VIII	10/01/90	10/01/91
PPS–IX	10/01/91	10/01/92
PPS–X	10/01/92	10/01/93
PPS–XI	10/01/93	10/01/94
PPS–XII	10/01/94	10/01/95

Note: The PPS–XIII, PPS–XIV, PPS–XV, and PPS–XVI Minimum Data Sets are part of the PPS–XIII, PPS–XIV, PPS–XV, and PPS XVI Hospital Data Set Files.

8. PPS–IX to PPS–XII Capital Data Set

The Capital Data Set contains selected data for capital-related costs, interest expense and related information and complete balance sheet data from the Medicare hospital cost report. The data set includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare certified hospital by the Medicare fiscal intermediary to HCFA. This data set is updated at the end of each calendar quarter and is available on the last day of the following month.

Media: Tape/Cartridge
File Cost: $770.00 per year

	Periods beginning on or after	And before
PPS–IX	10/01/91	10/01/92
PPS–X	10/01/92	10/01/93
PPS–XI	10/01/93	10/01/94
PPS–XII	10/01/94	10/01/95

Note: The PPS–XIII, PPS–XIV, PPS–XV, and PPS–XVI Capital Data Sets are part of the PPS–XIII, PPS–XIV, PPS–XV, and PPS–XVI Hospital Data Set Files.

9. PPS–XIII to PPS–XVI Hospital Data Set

The file contains cost, statistical, financial, and other data from the Medicare Hospital Cost Report. The data set includes only the most current cost report (as submitted, final settled, or reopened) submitted for a Medicare-certified hospital by the Medicare fiscal intermediary to HCFA. The data set are updated at the end of each calendar quarter and is available on the last day of the following month.

Media: Diskette/Internet
File Cost: $2,500.00

	Periods beginning on or after	And before
PPS–XIII	10/01/95	10/01/96
PPS–XIV	10/01/96	10/01/97
PPS–XV	10/01/97	10/01/98
PPS–XVI	10/01/98	10/01/99

10. Provider-Specific File

This file is a component of the PRICER program used in the fiscal intermediary's system to compute DRG payments for individual bills. The file contains records for all prospective payment system eligible hospitals, including hospitals in waiver States, and data elements used in the prospective payment system recalibration processes and related activities. Beginning with December 1988, the individual records were enlarged to include pass-through per diems and other elements.

Media: Diskette/Internet
File Cost: $265.00
Periods Available: FY 2002 PPS Update

11. HCFA Medicare Case-Mix Index File

This file contains the Medicare case-mix index by provider number as published in each year's update of the Medicare hospital inpatient prospective payment system. The case-mix index is a measure of the costliness of cases treated by a hospital relative to the cost of the national average of all Medicare hospital cases, using DRG weights as a measure of relative costliness of cases. Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final rule published in the **Federal Register**.

Media: Diskette/most recent year on Internet
Price: $165.00 per year/per file
Periods Available: FY 1985 through FY 2000

12. DRG Relative Weights (Formerly Table 5 DRG)

This file contains a listing of DRGs, DRG narrative description, relative weights, and geometric and arithmetic mean lengths of stay as published in the **Federal Register**. The hard copy image has been copied to diskette. There are two versions of this file as published in the **Federal Register:**

- NPRM.
- Final rule.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2002 PPS Update

13. PPS Payment Impact File

This file contains data used to estimate payments under Medicare's hospital inpatient prospective payment systems for operating and capital-related costs. The data are taken from various sources, including the Provider-Specific File, Minimum Data Sets, and prior impact files. The data set is abstracted from an internal file used for the impact analysis of the changes to the prospective payment systems published in the **Federal Register**. This file is available for release 1 month after the proposed and final rules are published in the **Federal Register**.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2002 PPS Update

14. AOR/BOR Tables

This file contains data used to develop the DRG relative weights. It contains mean, maximum, minimum, standard deviation, and coefficient of variation statistics by DRG for length of stay and standardized charges. The BOR tables are ''Before Outliers Removed'' and the AOR is ''After Outliers Removed.'' (Outliers refers to statistical outliers, not payment outliers.) Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final rule published in the **Federal Register**.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2002 PPS Update

For further information concerning these data tapes, contact the HCFA Public Use Files Hotline at (410) 786–3691.

Commenters interested in obtaining or discussing any other data used in constructing this rule should contact Stephen Phillips at (410) 786–4531.

B. Information Collection Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comments on each of these issues for the sections that contain information collection requirements.

Proposed New § 412.230(e)(2)(ii) Criteria for an Individual Hospital Seeking Redesignation to Another Rural Area or an Urban Area; Proposed New § 412.232(d)(2)(ii) Criteria for All Hospitals in a Rural County Seeking Urban Redesignation; Proposed New § 412.235 Criteria for All Hospitals in a State Seeking a Statewide Wage Index; and Proposed Revised § 412.273 Withdrawing an Application or Terminating an Approved 3-Year Reclassification

Proposed §§ 412.230(e)(2)(ii) and 412.232(d)(2)(ii) specify that, for hospital-specific data for wage index changes for redesignations effective beginning FY 2003, the hospital must provide a 3-year average of its average hourly wages using data from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes. For other data, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. Proposed new § 412.235 specifies that in order for all prospective payment system hospitals in a State to use a statewide wage index, the hospitals as a group must submit an application to the MGCRB for a decision for reclassifications for wage index purposes. The proposed changes to § 412.273 would incorporate proposed revised procedures for hospitals that request withdraw of their wage index application or termination of their wage index reclassification. These proposed changes, discussed in detail in section IV.E. of this proposed rule, implement sections 304(a) and (b) of Public Law 106–554.

The information collection requirements associated with a hospital's application to the MGCRB for geographic reclassifications, including reclassifications for wage index purposes and the required submittal of wage data, that are codified in Part 412 are currently approved by OMB under OMB Approval Number 0938–0573, with an expiration date of September 30, 2002.

Proposed § 412.348(g)(9) Exception Payments

As discussed in section V. of this proposed rule, Medicare makes special exceptions payments for capital-related costs through the 10th year beyond the end of the capital prospective payment system transition period for eligible hospitals that complete a project that meets certain requirements specified in § 412.348. In order to assist our fiscal intermediaries in determining the end of the 10-year period in which an eligible hospital will no longer be entitled to receive special exception payments, we are proposing to add a new § 412.348(g)(9) to require that hospitals eligible for special exception payments under § 412.348(g) submit documentation to the intermediary indicating the completion date of their project (the date the project was put in use for patient care) that meets the project need and project size requirements outlined in §§ 412.348(g)(2) through (g)(5). We are proposing that, in order for an eligible hospital to receive special exception payments, this documentation would have to be submitted in writing to the intermediary by the later of October 1, 2001, or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed.

We estimate that the information collection requirement of preparing and submitting the documentation on a hospital's capital project would impose a burden of approximately 1 hour for approximately 30 hospitals.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following addresses:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Attn: John Burke HCFA–1158–P; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

These new information collection and recordkeeping requirements have been submitted to the Office of Management and Budget (OMB) for review under the authority of PRA. We have submitted a copy of the proposed rule to OMB for its review of the information collection requirements. These requirements will not be effective until they have been approved by OMB.

C. Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments concerning the provisions of this proposed rule that we receive by the date and time specified in the **DATES** section of this preamble and respond to those comments in the preamble to that rule. We emphasize that section 1886(e)(5) of the Act requires the final rule for FY 2002 to be published by August 1, 2001, and we will consider only those comments that deal specifically with the matters discussed in this proposed rule.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs-health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 486

Health professions, Medicare, Organ procurement, X-rays.

42 CFR Chapter IV is proposed to be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended as set forth below:

1. The authority citation for Part 405 continues to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, 1881, and 1886(k) of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, 1395rr, and 1395ww(k), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. In § 405.2468, paragraph (f)(6)(ii) is republished and paragraph (f)(6)(ii)(D) is revised to read as follows.

§ 405.2468 Allowable costs.

* * * * *

(f) *Graduate medical education.*

* * *

(6) * * *

(ii) The following costs are not allowable graduate medical education costs:

* * * * *

(D) The costs associated with activities described in § 413.85(h) of this chapter.

* * * * *

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

B. Part 412 is amended as follows:

1. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 412.2 is amended as follows:

a. The introductory text of paragraph (e) is republished.

b. Paragraph (e)(4) is revised.

c. The introductory text of paragraph (f) is republished.

d. A new paragraph (f)(9) is added.

§ 412.2 Basis of payment.

* * * * *

(e) *Excluded costs.* The following inpatient hospital costs are excluded from the prospective payment amounts and are paid on a reasonable cost basis:

* * * * *

(4) The acquisition costs of hearts, kidneys, livers, lungs, pancreas, and intestines (or multivisceral organs) incurred by approved transplantation centers.

* * * * *

(f) *Additional payments to hospitals.* In addition to payments based on the prospective payment system rates for inpatient operating and inpatient capital-related costs, hospitals receive payments for the following:

* * * * *

(9) Special additional payment for certain new technology as specified in § 412.87 and 412.88 of Subpart F.

3. Section 412.23 is amended by adding a new paragraph (i) to read as follows:

§ 412.23 Excluded hospitals: Classifications.

* * * * *

(i) *Changes in classification of hospitals.* For purposes of exclusions from the prospective payment system, the classification of a hospital is effective for the hospital's entire cost reporting period. Any changes in the classification of a hospital are made only at the start of a cost reporting period.

4. Section 412.25 is amended by adding a new paragraph (f) to read as follows:

§ 412.25 Excluded hospital units: Common requirements.

* * * * *

(f) *Changes in classification of hospital units.* For purposes of exclusions from the prospective payment system under this section, the classification of a hospital unit is effective for the unit's entire cost reporting period. Any changes in the classification of a hospital unit is made only at the start of a cost reporting period.

5. Section 412.63 is amended by revising paragraphs (t) and (u) to read as follows:

§ 412.63 Federal rates for inpatient operating costs for fiscal years after Federal fiscal year 1984.

* * * * *

(t) *Applicable percentage change for fiscal years 2002 and 2003.* The applicable percentage change for fiscal years 2002 and 2003 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) minus 0.55 percentage points for hospitals in all areas.

(u) *Applicable percentage change for fiscal year 2004 and for subsequent fiscal years.* The applicable percentage change for fiscal year 2004 and for subsequent years is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) for hospitals in all areas.

* * * * *

6. The title of Subpart F is revised to read as follows:

Subpart F—Payment for Outlier Cases and Special Treatment Payment for New Technology

7. A new undesignated center heading is added after the Subpart F heading and before § 412.80; the section heading of § 412.80 is revised; and a new paragraph (a)(3) is added to read as follows:

Payment for Outlier Cases

§ 412.80 Outlier cases: General provisions.

(a) *Basic rule.*

* * * * *

(3) *Discharges occurring on or after October 1, 2001.* For discharges occurring on or after October 1, 2001, except as provided in paragraph (b) of this section concerning transfers, HCFA provides for additional payment, beyond standard DRG payments and beyond additional payments for new medical services or technology specified in §§ 412.87 and 412.88, to a hospital for covered inpatient hospital services furnished to a Medicare beneficiary if the hospital's charges for covered services, adjusted to operating costs and capital costs by applying cost-to-charge ratios as described in § 412.84(h), exceed the DRG payment for the case (plus payments for indirect costs of graduate medical education (§ 412.105), payments for serving a disproportionate share of low-income patients (§ 412.106), and additional payments for new medical services or technologies) plus a fixed dollar amount (adjusted for geographic variation in costs) as specified by HCFA.

* * * * *

8. A new undesignated center heading and §§ 412.87 and 412.88 are added immediately following § 412.86, to read as follows:

Additional Special Payment for Certain New Technology

§ 412.87 Additional payment for new medical services and technologies: General provisions.

(a) *Basis.* Sections 412.87 and 412.88 implement sections 1886(d)(5)(K) and 1886(d)(5)(L) of the Act, which authorizes the Secretary to establish a mechanism to recognize the costs of new medical services and technologies under the hospital inpatient prospective payment system.

(b) *Eligibility criteria.* For discharges occurring on or after October 1, 2001, HCFA provides for additional payments (as specified in § 412.88) beyond the standard DRG payments and outlier payments to a hospital for discharges involving covered inpatient hospital services that are new medical services and technologies, if the following conditions are met:

(1) A new medical service or technology represents an advance that substantially improves, relative to technologies previously available, the diagnosis or treatment of Medicare beneficiaries. HCFA will determine whether a new medical service or technology meets this criterion and announce the results of its determinations in the **Federal Register** as a part of its annual updates and changes to the hospital inpatient prospective payment system.

(2) A medical service or technology may be considered new within 2 or 3 years after it becomes available on the market (depending on when a new code is assigned and data on the new service or technology become available for DRG recalibration). After HCFA has recalibrated the DRGs, based on

available data, to reflect the costs of an otherwise new medical service or technology, the medical service or technology will no longer be considered ''new'' under the criterion of this section.

(3) The DRG prospective payment rate otherwise applicable to discharges involving the medical service or technology is determined to be inadequate, based on application of a threshold amount to estimated costs incurred with respect to such discharges. To determine whether the payment would be adequate, HCFA will determine whether the costs of the cases involving a new medical service or technology will exceed a threshold amount set at one standard deviation beyond the mean standardized charge for all cases in the DRG to which the new medical service or technology is assigned (or the case-weighted average of all relevant DRGs if the new medical service or technology occurs in many different DRGs). Standardized charges reflect the actual charges of a case adjusted by the prospective payment system payment factors applicable to an individual hospital, such as the wage index, the indirect medical education adjustment factor, and the disproportionate share adjustment factor.

§ 412.88 Additional payment for new medical service or technology.

(a) For discharges involving new medical services or technologies that meet the criteria specified in § 412.87, Medicare payment will be:

(1) The standard DRG payment; plus

(2) If the costs of the discharge (determined by applying cost-to-charge ratios as described in § 412.84(h)) exceed the standard DRG payment, an additional amount equal to the lesser of—

(i) 50 percent of the costs of the new medical service or technology; or

(ii) 50 percent of the amount by which the costs of the case exceed the standard DRG payment.

(b) Unless a discharge case qualifies for outlier payment under § 412.84, Medicare will not pay any additional amount beyond the DRG payment plus 50 percent of the estimated costs of the new medical service or technology.

9. Section 412.92 is amended as follows:

a. Paragraph (b)(1)(iii)(A) is amended by revising the phrase ''50 mile radius'' to read ''35 mile radius.''

b. Paragraph (c)(1) is revised.

§ 412.92 Special treatment: Sole community hospitals.

* * * * *

(c) *Terminology.* * * *

(1) The term *miles* means the shortest distance in miles measured over improved roads. An improved road for this purpose is any road that is maintained by a local, State, or Federal government entity and is available for use by the general public. An improved road includes the paved surface up to the front entrance of the hospital.

* * * * *

10. Section 412.105 is amended as follows:

a. The introductory text of paragraph (a) is republished.

b. Paragraph (a)(1) is revised.

c. Paragraph (d)(3)(vi) is revised.

d. A new paragraph (d)(3)(vii) is added.

e. Paragraph (f)(1)(ii)(C) is revised.

f. Paragraph (f)(1)(iii) is revised.

g. Paragraph (f)(1)(v) is amended by adding four sentences at the end.

h. Paragraph (f)(1)(ix) is revised.

§ 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

* * * * *

(a) *Basic data.* HCFA determines the following for each hospital:

(1) The hospital's ratio of full-time equivalent residents, except as limited under paragraph (f) of this section, to the number of beds (as determined under paragraph (b) of this section). Except for the special circumstances for affiliated groups and new programs described in paragraphs (f)(1)(vi) and (f)(1)(vii) of this section, for a hospital's cost reporting periods beginning on or after October 1, 1997, this ratio may not exceed the ratio for the hospital's most recent prior cost reporting period after accounting for the cap on the number of full-time equivalent residents as described in paragraph (f)(1)(iv) of this section. The exception for new programs described in paragraph (f)(1)(vii) of this section applies for the period of years equal to the minimum accredited length for that type of program.

* * * * *

(d) *Determination of education adjustment factor.*

* * * * *

(3) * * *

(vi) For discharges occurring during fiscal year 2002, 1.6.

(vii) For discharges occurring on or after October 1, 2002, 1.35.

* * * * *

(f) *Determining the total number of full-time equivalent residents for cost reporting periods beginning on or after July 1, 1991.*

(1) * * *

(ii) * * *

(C) Effective for discharges occurring on or after October 1, 1997, the time spent by a resident in a non-hospital setting in patient care activities under an approved medical residency training program is counted towards the determination of full-time equivalency if the criteria set forth in § 413.86(f)(3) or § 413.86 (f)(4), as applicable, are met.

(iii) (A) Full-time equivalent status is based on the total time necessary to fill a residency slot. No individual may be counted as more than one full-time equivalent. If a resident is assigned to more than one hospital, the resident counts as a partial full-time equivalent based on the proportion of time worked in any of the areas of the hospital listed in paragraph (f)(1)(ii) of this section, to the total time worked by the resident. A part-time resident or one working in an area of the hospital other than those listed under paragraph (f)(1)(ii) of this section (such as a freestanding family practice center or an excluded hospital unit) would be counted as a partial full-time equivalent based on the proportion of time assigned to an area of the hospital listed in paragraph (f)(1)(ii) of this section, compared to the total time necessary to fill a full-time residency slot.

(B) The time spent by a resident in research that is not associated with the treatment or diagnosis of a particular patient of the hospital is not countable.

* * * * *

(v) * * * If a hospital qualified for an adjustment to the limit established under paragraph (f)(1)(iv) of this section for new medical residency programs created under paragraph (f)(1)(vii) of this section, the count of residents participating in new medical residency training programs above the number included in the hospital's FTE count for the cost reporting period ending during calendar year 1996 is added after applying the averaging rules in this paragraph for a period of years. Residents participating in new medical residency training programs are included in the hospital's FTE count before applying the averaging rules after the period of years has expired. For purposes of this paragraph, the period of years equals the minimum accredited length for the type of program. The period of years begins when the first resident begins training.

* * * * *

(ix) A hospital may receive a temporary adjustment to its full-time equivalent cap to reflect residents added because of another hospital's closure if the hospital meets the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(ii) of this

subchapter. If a hospital that closes its residency training program agrees to temporarily reduce its FTE cap according to the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(iii)(B) of this subchapter, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the residency training program if the criteria specified in §§ 413.86(g)(8)(i) and (g)(8)(iii)(A) of this subchapter are met.

* * * * *

11. Section 412.106 is amended by revising the heading of paragraph (e) and paragraph (e)(5) to read as follows:

§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

* * * * *

(e) *Reduction in payments beginning FY 1998.* * * *

(5) For FY 2002, 3 percent.

* * * * *

§ 412.113 [Amended]

12. In § 412.113(c), including the heading for paragraph (c), the term ''hospital'', wherever it appears, is revised to read ''hospital or CAH'' (16 times).

13. Section 412.230 is amended by revising paragraph (e)(2) to read as follows:

§ 412.230 Criteria for an individual hospital seeking redesignation to another rural area or an urban area.

* * * * *

(e) *Use of urban or other rural area's wage index.*

* * * * *

(2) *Appropriate wage data.* For a wage index change, the hospital must submit appropriate wage data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospital must provide data from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(B) For data for other hospitals, the hospital must provide data concerning the average hourly wage in the area in which the hospital is located and the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospital requests reclassification.

(C) If the hospital is requesting reclassification under paragraph (e)(1)(iv)(B) of this section, the hospital must provide occupational-mix data to demonstrate the average occupational mix for each employment category in the area to which it seeks reclassification. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes.

* * * * *

14. Section 412.232 is amended by revising paragraph (d)(2) to read as follows:

§ 412.232 Criteria for all hospitals in a rural county seeking urban redesignation.

* * * * *

(d) *Appropriate data.*

* * * * *

(2) *Appropriate wage data.* The hospitals must submit appropriate data as follows:

(i) For redesignations effective through FY 2002:

(A) For hospital-specific data, the hospitals must provide data from the HCFA wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(B) For data for other hospitals, the hospitals must provide the following:

(*1*) The average hourly wage in the adjacent area, which is taken from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes during the fiscal year prior to the fiscal year for which the hospitals request reclassification.

(*2*) Occupational-mix data to demonstrate the average occupational mix for each employment category in the adjacent area. Occupational-mix data can be obtained from surveys conducted by the American Hospital Association.

(ii) For redesignations effective beginning FY 2003:

(A) For hospital-specific data, the hospital must provide a weighted 3-year average of its average hourly wages using data from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes.

(B) For data for other hospitals, the hospital must provide a weighted 3-year average of the average hourly wage in the area in which the hospital is located and a weighted 3-year average of the average hourly wage in the area to which the hospital seeks reclassification. The wage data are taken from the HCFA hospital wage survey used to construct the wage index in effect for prospective payment purposes.

15. Section 412.235 is added to read as follows:

§ 412.235 Criteria for all hospitals in a State seeking a statewide wage index redesignation.

(a) *General criteria.* For all prospective payment system hospitals in a State to be redesignated to a statewide wage index, the following conditions must be met:

(1) All prospective payment system hospitals in the State must apply as a group for reclassification to a statewide wage index through a signed single application.

(2) All prospective payment system hospitals in the State must agree to the reclassification to a statewide wage index through a signed affidavit on the application.

(3) All prospective payment system hospitals in the State must agree, through an affidavit, to withdrawal of an application or to termination of an approved statewide wage index reclassification.

(4) All hospitals in the State must waive their rights to any wage index classification that they would otherwise receive absent the statewide wage index classification, including a wage index that any of the hospitals might have received through individual geographic reclassification.

(5) New hospitals that open within the State prior to the deadline for submitting an application for a statewide wage index reclassification (September 1), regardless of whether a group application has already been filed, must agree to the use of the statewide wage index as part of the group application. New hospitals that open within the State after the deadline for submitting a statewide wage index reclassification application or during the approved reclassification period will be considered a party to the statewide

wage index application and reclassification.

(b) *Effect on payments.* (1) An individual hospital within the State may receive a wage index that could be higher or lower under the statewide wage index reclassification in comparison to its otherwise redesignated wage index.

(2) Any new prospective payment system hospital that opens in the State during the effective period of an approved statewide wage index reclassification will be designated to receive the statewide wage index for the duration of that period.

(3) A hospital located in an area outside a State in which all participating hospitals have received an approved statewide wage index reclassification may apply to be reclassified into the statewide wage index area. In that case, such a hospital that is reclassified into a statewide wage index area will receive a wage index calculated based on the statewide wage index reclassification.

(c) *Terms of the decision.* (1) A decision by the MGCRB on an application for a statewide wage index reclassification will be effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the hospitals filed a complete application.

(2) The procedures and timeframes specified in § 412.273 apply to withdrawals of applications for redesignation to a statewide wage index and terminations of approved statewide wage index reclassifications, including the requirement that, to withdraw an application or terminate an approved reclassification, the request must be made in writing by all hospitals that are party to the application, except hospitals reclassified into the State for purposes of receiving the statewide wage index.

16. Section 412.273 is amended as follows:

a. The title of the section is revised.

b. Paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively.

c. A new paragraph (b) is added.

d. Redesignated paragraph (c) is revised.

§ 412.273 Withdrawing an application or terminating an approved 3-year reclassification.

* * * * *

(b) *Request for termination of approved 3-year wage index reclassifications.*

(1) A hospital, or a group of hospitals, that has been issued a decision on its application for a 3-year reclassification for wage index purposes only or for redesignation to a statewide wage index and has not withdrawn that application under the procedures specified in paragraph (a) of this section may request termination of its approved 3-year wage index reclassification under the following conditions:

(i) The request to terminate must be received by the MGCRB within 45 days of the publication of the annual notice of proposed rulemaking concerning changes to the inpatient hospital prospective payment system and proposed payment rates for the fiscal year for which the termination is to apply.

(ii) A request to terminate a 3-year reclassification will be effective only for the full fiscal year(s) remaining in the 3-year period at the time the request is received. Requests for terminations for part of a fiscal year will not be considered.

(2) *Reapplication within the approved 3-year period.*

(i) If a hospital elects to withdraw its wage index application after the MGCRB has issued its decision, it may terminate its withdrawal in a subsequent fiscal year and request the MGCRB to reinstate its wage index reclassification for the remaining fiscal year(s) of the 3-year period.

(ii) A hospital may apply for reclassification for purposes of the wage index to a different area (that is, an area different from the one to which it was originally reclassified for the 3-year period). If the application is approved, the reclassification will be effective for 3 years.

(c) *Written request only.* A request to withdraw an application or terminate an approved reclassification must be made in writing to the MGCRB by all hospitals that are party to the application or reclassification.

* * * * *

17. Section 412.274 is amended by revising paragraph (b) to read as follows:

§ 412.274 Scope and effect of an MGCRB decision.

* * * * *

(b) *Effective date and term of the decision.* (1) A standardized amount classification change is effective for one year beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year following the Federal fiscal year in which the complete application is filed and ending effective at the end of that Federal fiscal year (the end of the next September 30).

(2) A wage index classification change is effective for 3 years beginning with discharges occurring on the first day (October 1) of the second Federal fiscal year in which the complete application is filed.

* * * * *

18. Section 412.348 is amended by revising paragraph (g)(6) and adding a new paragraph (g)(9) to read as follows:

§ 412.348 Exception payments.

* * * * *

(g) *Special exceptions process.* * * *

(6) *Minimum payment level.*

(i) The minimum payment level for qualifying hospitals will be 70 percent.

(ii) HCFA will adjust the minimum payment level in one percentage point increments as necessary to satisfy the requirement specified in paragraph (h) of this section that total estimated payments under the exceptions process not exceed 10 percent of the total estimated capital prospective payment system payments for the same fiscal year.

* * * * *

(9) *Notification requirement.* Eligible hospitals must submit documentation to the intermediary indicating the completion date of a project that meets the project need requirement under paragraph (g)(2) of this section, the project size requirement under paragraph (g)(5) of this section, and, in the case of certain urban hospitals, an excess capacity test under paragraph (g)(4) of this section, by the later of October 1, 2001 or within 3 months of the end of the hospital's last cost reporting period beginning before October 1, 2001, during which a qualifying project was completed.

* * * * *

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

C. Part 413 is amended as follows:

1. The authority citation for Part 413 is revised to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. Section 413.70 is amended as follows:

a. Paragraph (a)(1) introductory text is republished.

b. A new paragraph (a)(1)(iv) is added.

c. Paragraph (a)(2) is revised.

d. A new paragraph (a)(3) is added.

e. Paragraph (b)(1) is revised.

f. Paragraph (b)(2)(i)(C) is revised.

g. New paragraphs (b)(4), (b)(5) and (b)(6) are added.

§ 413.70 Payment for services of a CAH.

(a) *Payment for inpatient services furnished by a CAH.*

(1) Payment for inpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its inpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH inpatient services:

* * * * *

(iv) The payment window provisions for preadmission services, specified in § 412.2(c)(5) of this subchapter and § 413.40(c)(2).

(2) Except as specified in paragraph (a)(3) of this section, payment to a CAH for inpatient services does not include any costs of physician services or other professional services to CAH inpatients, and is subject to the Part A hospital deductible and coinsurance, as determined under subpart G of part 409 of this chapter.

(3) If a CAH meets the criteria in § 412.113(c) of this subchapter for pass-through of costs of anesthesia services furnished by qualified nonphysician anesthetists employed by the CAH or obtained under arrangements, payment to the CAH for the costs of those services is made in accordance with § 412.113(c).

(b) *Payment for outpatient services furnished by CAH.*—(1) *General.* (i) Unless the CAH elects to be paid for services to its outpatients under the method specified in paragraph (b)(3) of this section, the amount of payment for outpatient services of a CAH is the amount determined under paragraph (b)(2) of this section.

(ii) Except as specified in paragraph (b)(6) of this section, payment to a CAH for outpatient services does not include any costs of physician services or other professional services to CAH outpatients.

* * * * *

(2) *Reasonable costs for facility services.*

(i) * * *

(C) Any type of reduction to operating or capital costs under § 413.124 or § 413.130(j).

* * * * *

(4) *Costs of emergency room on-call physicians.* (i) Effective for cost reporting periods beginning on or after October 1, 2001, the reasonable costs of outpatient CAH services under paragraph (b) of this section may include amounts for reasonable compensation and related costs for an emergency room physician who is on call but who is not present on the premises of the CAH involved, is not otherwise furnishing physicians' services, and is not on call at any other provider or facility.

(ii) For purposes of this paragraph (b)(4)—

(A) ''Amounts for reasonable compensation and related costs'' means all allowable costs of compensating emergency room physicians who are on call to the extent the costs are found to be reasonable under the rules specified in paragraph (b)(2) of this section and the applicable sections of Part 413. Costs of compensating emergency room physicians are allowable only if the costs are incurred under written contracts that require the physician to come to the CAH when the physician's presence is medically required.

(B) An ''emergency room physician who is on call' means a doctor of medicine or osteopathy with training or experience in emergency care who is immediately available by telephone or radio contact, and is available on site within the timeframes specified in § 485.618(d) of this chapter.

(5) *Costs of ambulance services.* (i) Effective for services furnished on or after December 21, 2000, payment for ambulance services furnished by a CAH or an entity that is owned and operated by a CAH is the reasonable costs of the CAH or the entity in furnishing those services, but only if the CAH or the entity is the only provider or supplier of ambulance services located within a 35-mile drive of the CAH or the entity.

(ii) For purposes of paragraph (b)(5) of this section, the distance between the CAH or the entity and the other provider or supplier of ambulance services will be determined as the shortest distance in miles measured over improved roads between the CAH or the entity and the site at which the vehicles of the closest provider or supplier of ambulance services are garaged. An improved road for this purpose is any road that is maintained by a local, State, or Federal government entity and is available for use by the general public. An improved road will be considered to include the paved surface up to the front entrance of the hospital and the front entrance of the garage.

(6) If a CAH meets the criteria in § 412.113(c) of this subchapter for pass-through of costs of anesthesia services furnished by nonphysician anesthetists employed by the CAH or obtained under arrangement, payment to the CAH for the costs of those services is made in accordance with § 412.113(c).

* * * * *

3. Section 413.86 is amended as follows:

a. Paragraph (e)(4)(ii)(C)(1) is revised.

b. Paragraph (e)(5)(iv) is removed.

c. Paragraph (g)(4) is revised.

d. Paragraph (g)(5) is revised.

e. Paragraph (g)(8) is revised.

§ 413.86 Direct graduate medical education payments.

* * * * *

(e) *Determining per residents amounts for the base period.* * * *

(4) * * *

(ii) * * *

(C) *Determining necessary revisions to the per resident amount.* * * *

(*1*) Floor. (*i*) For cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, if the hospital's per resident amount would otherwise be less than 70 percent of the locality-adjusted national average per resident amount for FY 2001 (as determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 70 percent of the locality-adjusted national average per resident amount for FY 2001.

(*ii*) For cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, if the hospital's per resident amount would otherwise be less than 85 percent of the locality-adjusted national average per resident amount for FY 2002 (as determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 85 percent of the locality-adjusted national average per resident amount for FY 2002.

(*iii*) For subsequent cost reporting periods beginning on or after October 1, 2002, the hospital's per resident amount is updated using the methodology specified under paragraph (e)(3)(i) of this section.

* * * * *

(g) *Determining the weighted number of FTE residents.* * * *

(4) For purposes of determining direct graduate medical education payments—

(i) For cost reporting periods beginning on or after October 1, 1997, a hospital's unweighted FTE count for residents in allopathic and osteopathic medicine may not exceed the hospital's unweighted FTE count (or, effective for cost reporting periods beginning on or after April 1, 2000, 130 percent of the unweighted FTE count for a hospital located in a rural area) for these residents for the most recent cost reporting period ending on or before December 31, 1996.

(ii) If a hospital's number of FTE residents in a cost reporting period beginning on or after October 1, 1997, and before October 1, 2001, exceeds the limit described in this paragraph (g), the hospital's total weighted FTE count (before application of the limit) will be reduced in the same proportion that the number of FTE residents for that cost reporting period exceeds the number of FTE residents for the most recent cost reporting period ending on or before December 31, 1996.

(iii) If the hospital's number of FTE residents in a cost reporting period beginning on or after October 1, 2001 exceeds the limit described in this paragraph (g), the hospital's weighted FTE count (before application of the limit), for primary care and obstetrics and gynecology residents and nonprimary care residents, respectively, will be reduced in the same proportion that the number of FTE residents for that cost reporting period exceeds the number of FTE residents for the most recent cost reporting period ending on or before December 31, 1996.

(iv) Hospitals that are part of the same affiliated group may elect to apply the limit on an aggregate basis.

(v) The fiscal intermediary may make appropriate modifications to apply the provisions of this paragraph (g)(4) based on the equivalent of a 12-month cost reporting period.

(5) For purposes of determining direct graduate medical education payment—

(i) For the hospital's first cost reporting period beginning on or after October 1, 1997, the hospital's weighted FTE count is equal to the average of the weighted FTE count for the payment year cost reporting period and the preceding cost reporting period.

(ii) For cost reporting periods beginning on or after October 1, 1998, and before October 1, 2001, the hospital's weighted FTE count is equal to the average of the weighted FTE count for the payment year cost reporting period and the preceding two cost reporting periods.

(iii) For cost reporting periods beginning on or after October 1, 2001, the hospital's weighted FTE count for primary care and obstetrics and gynecology residents is equal to the average of the weighted primary care and obstetrics and gynecology counts for the payment year cost reporting period and the preceding two cost reporting periods, and the hospital's weighted FTE count for nonprimary care residents is equal to the average of the weighted nonprimary care FTE counts for the payment year cost reporting period and the preceding two cost reporting periods.

(iv) The fiscal intermediary may make appropriate modifications to apply the provisions of this paragraph (g)(5) based on the equivalent of 12-month cost reporting periods.

(v) If a hospital qualifies for an adjustment to the limit established under paragraph (g)(4) of this section for new medical residency programs created under paragraph (g)(6) of this section, the count of the residents participating in new medical residency training programs above the number included in the hospital's FTE count for the cost reporting period ending during calendar year 1996 is added after applying the averaging rules in this paragraph (g)(5) for a period of years. Residents participating in new medical residency training programs are included in the hospital's FTE count before applying the averaging rules after the period of years has expired. For purposes of this paragraph (g)(5), the period of years equals the minimum accredited length for the type of program. The period of years begins when the first resident begins training.

* * * * *

(8) *Closure of hospital or hospital residency program.*

(i) *Definitions.* For purposes of this paragraph (g)(8)—

(A) ''Closure of a hospital'' means the hospital terminates its Medicare agreement under the provisions of § 489.52 of this chapter.

(B) ''Closure of a hospital residency training program'' means the hospital ceases to offer training for residents in a particular approved medical residency training program.

(ii) *Closure of a hospital.* A hospital may receive a temporary adjustment to its FTE cap to reflect residents added because of another hospital's closure if the hospital meets the following criteria:

(A) The hospital is training additional residents from a hospital that closed on or after July 1, 1996.

(B) No later than 60 days after the hospital begins to train the residents, the hospital submits a request to its fiscal intermediary for a temporary adjustment to its FTE cap, documents that the hospital is eligible for this temporary adjustment by identifying the residents who have come from the closed hospital and have caused the hospital to exceed its cap, and specifies the length of time the adjustment is needed.

(iii) *Closure of a hospital's residency training program.* If a hospital that closes its residency training program voluntarily agrees to temporarily reduce its FTE cap according to the criteria specified in paragraph (g)(8)(iii)(B) of this section, another hospital(s) may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of the residency training program if the criteria specified in paragraph (g)(8)(iii)(A) of this section are met.

(A) *Receiving hospital(s).* A hospital may receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of another hospital's residency training program if—

(*1*) The hospital is training additional residents from the residency training program of a hospital that closed a program; and

(*2*) No later than 60 days after the hospital begins to train the residents, the hospital submits to its fiscal intermediary a request for a temporary adjustment to its FTE cap, documents that it is eligible for this temporary adjustment by identifying the residents who have come from another hospital's closed program and have caused the hospital to exceed its cap, specifies the length of time the adjustment is needed, and submits to its fiscal intermediary a copy of the FTE reduction statement by the hospital that closed its program, as specified in paragraph (g)(8)(iii)(B)(*2*) of this section.

(B) *Hospital that closed its program(s).* A hospital that agrees to train residents who have been displaced by the closure of another hospital's program may receive a temporary FTE cap adjustment only if the hospital with the closed program—

(*1*) Temporarily reduces its FTE cap based on the FTE residents in each program year training in the program at the time of the program's closure. This yearly reduction in the FTE cap will be determined based on the number of those residents who would have been training in the program during that year had the program not closed; and

(*2*) No later than 60 days after the residents who were in the closed program begin training at another hospital, submit to its fiscal intermediary a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the hospital training the displaced residents to obtain a temporary adjustment to its cap; identifies the residents who were in training at the time of the program's closure; identifies the hospitals to which the residents are transferring once the program closes; and specifies the reduction for the applicable program years.

* * * * *

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

D. Part 485 is amended as follows:

1. The authority citation for part 485 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Act (42 U.S.C. 1302 and 1395hh).

2. Section 485.610 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 485.610 Condition of participation: Status and location.

* * * * *

(b) *Standard: Location in a rural area or treatment as rural.* The CAH meets the requirements of either paragraph (b)(1) or (b)(2) of this section.

(1) The CAH meets the following requirements:

(i) The CAH is located outside any area that is a Metropolitan Statistical Area, as defined by the Office of Management and Budget, or that has been recognized as urban under § 412.62(f) of this chapter;

(ii) The CAH is not deemed to be located in an urban area under § 412.63(b) of this chapter; and

(iii) The CAH has not been classified as an urban hospital for purposes of the standardized payment amount by HCFA or the Medicare Geographic Classification Review Board under § 412.230(e) of this chapter, and is not among a group of hospitals that have been redesignated to an adjacent urban area under § 412.232 of this chapter.

(2) The CAH is located within a Metropolitan Statistical Area, as defined by the Office of Management and Budget, but is being treated as being located in a rural area in accordance with § 412.103 of this chapter.

(c) *Standard: Location relative to other facilities or necessary provider certification.* The CAH is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH, or the CAH is certified by the State as being a necessary provider of health care services to residents in the area.

3. Section 485.639 is amended by revising paragraph (b) to read as follows:

§ 485.639 Condition of participation: Surgical services.

* * * * *

(b) *Anesthetic risk and evaluation.* (1) A qualified practitioner, as specified in paragraph (a) of this section, must examine the patient immediately before surgery to evaluate the risk of the procedure to be performed.

(2) A qualified practitioner, as specified in paragraph (c) of this section, must examine each patient before surgery to evaluate the risk of anesthesia.

(3) Before discharge from the CAH, each patient must be evaluated for proper anesthesia recovery by a qualified practitioner, as specified in paragraph (c) of this section.

* * * * *

4. Section 485.643 is amended by revising paragraph (f) to read as follows:

§ 485.643 Condition of participation: Organ, tissue, and eye procurement.

* * * * *

(f) For purposes of these standards, the term ''organ'' means a human kidney, liver, heart, lung, pancreas, or intestines (or multivisceral organs).

PART 486—CONDITIONS FOR COVERAGE OF SPECIALIZED SERVICES FURNISHED BY SUPPLIERS

F. Part 486 is amended as follows:

1. The authority citation for Part 486 continues to read as follows:

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 486.302 is amended by revising the definition of ''organ'' to read as follows:

§ 486.302 Definitions.

* * * * *

''Organ'' means a human kidney, liver, heart, lung, pancreas, or intestines (or multivisceral organs).

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 15, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

Dated: April 3, 2001.

Tommy G. Thompson,

Secretary.

Editorial Note: The following Addendum and appendixes will not appear in the Code of Federal Regulations.

Addendum—Proposed Schedule of Standardized Amounts Effective With Discharges Occurring On or After October 1, 2001 and Update Factors and Rate-of-Increase Percentages Effective With Cost Reporting Periods Beginning On or After October 1, 2001

I. Summary and Background

In this Addendum, we are setting forth the proposed amounts and factors for determining prospective payment rates for Medicare inpatient operating costs and Medicare inpatient capital-related costs. We are also setting forth proposed rate-of-increase percentages for updating the target amounts for hospitals and hospital units excluded from the prospective payment system.

For discharges occurring on or after October 1, 2001, except for SCHs, MDHs, and hospitals located in Puerto Rico, each hospital's payment per discharge under the prospective payment system will be based on 100 percent of the Federal national rate.

SCHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal DRG payment rate. Section 213 of Public Law 106–554 amended section 1886(b)(3) of the Act to allow all SCHs to rebase their hospital-specific rate based on their FY 1996 cost per discharge.

Under section 1886(d)(5)(G) of the Act, MDHs are paid based on the Federal national rate or, if higher, the Federal national rate plus 50 percent of the difference between the Federal national rate and the updated hospital-specific rate based on FY 1982 or FY 1987 cost per discharge, whichever is higher.

For hospitals in Puerto Rico, the payment per discharge is based on the sum of 50 percent of a Puerto Rico rate and 50 percent of a Federal national rate. (See section II.D.3. of this Addendum for a complete description.)

As discussed below in section II. of this Addendum, we are proposing to make changes in the determination of the prospective payment rates for Medicare inpatient operating costs for FY 2002. The changes, to be applied prospectively, would affect the calculation of the Federal rates. In section III. of this Addendum, we discuss our proposed changes for

determining the prospective payment rates for Medicare inpatient capital-related costs for FY 2002. Section IV. of this Addendum sets forth our proposed changes for determining the rate-of-increase limits for hospitals excluded from the prospective payment system for FY 2002. The tables to which we refer in the preamble to this proposed rule are presented at the end of this Addendum in section V.

II. Proposed Changes to Prospective Payment Rates for Inpatient Operating Costs for FY 2002

The basic methodology for determining prospective payment rates for inpatient operating costs is set forth at § 412.63. The basic methodology for determining the prospective payment rates for inpatient operating costs for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below, we discuss the proposed factors used for determining the prospective payment rates. The Federal and Puerto Rico rate changes, once issued as final, will be effective with discharges occurring on or after October 1, 2001.

In summary, the proposed standardized amounts set forth in Tables 1A and 1C of section V. of this Addendum reflect—

- Updates of 2.55 percent for all areas (that is, the market basket percentage increase of 3.1 percent minus 0.55 percentage points);
- An adjustment to ensure budget neutrality of hospital geographic reclassification, as provided for under sections 1886(d)(4)(C)(iii) and (d)(3)(E) of the Act, by applying new budget neutrality adjustment factors to the large urban and other standardized amounts;
- An adjustment to ensure budget neutrality as provided for in section 1886(d)(8)(D) of the Act by removing the FY 2001 budget neutrality factor and applying a revised factor;
- An adjustment to apply the revised outlier offset by removing the FY 2001 outlier offsets and applying a new offset; and
- An adjustment in the Puerto Rico standardized amounts to reflect the application of a Puerto Rico-specific wage index.

A. Calculation of Adjusted Standardized Amounts

1. Standardization of Base-Year Costs or Target Amounts

Section 1886(d)(2)(A) of the Act required the establishment of base-year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. The preamble to the September 1, 1983 interim final rule (48 FR 39763) contains a detailed explanation of how base-year cost data were established in the initial development of standardized amounts for the prospective payment system and how they are used in computing the Federal rates.

Section 1886(d)(9)(B)(i) of the Act required us to determine the Medicare target amounts for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule (52 FR 33043, 33066) contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates.

The standardized amounts are based on per discharge averages of adjusted hospital costs from a base period or, for Puerto Rico, adjusted target amounts from a base period, updated and otherwise adjusted in accordance with the provisions of section 1886(d) of the Act. Sections 1886(d)(2)(B) and (d)(2)(C) of the Act required us to update base-year per discharge costs for FY 1984 and then standardize the cost data in order to remove the effects of certain sources of cost variations among hospitals. These effects include case-mix, differences in area wage levels, cost-of-living adjustments for Alaska and Hawaii, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients.

Under sections 1886(d)(2)(H) and (d)(3)(E) of the Act, in making payments under the prospective payment system, the Secretary estimates from time to time the proportion of costs that are wages and wage-related costs. Since October 1, 1997, when the market basket was last revised, we have considered 71.1 percent of costs to be labor-related for purposes of the prospective payment system. The average labor share in Puerto Rico is 71.3 percent. We are proposing to revise the discharge-weighted national standardized amount for Puerto Rico to reflect the proportion of discharges in large urban and other areas from the FY 2000 MedPAR file.

2. Computing Large Urban and Other Area Averages

Sections 1886(d)(2)(D) and (d)(3) of the Act require the Secretary to compute two average standardized amounts for discharges occurring in a fiscal year: one for hospitals located in large urban areas and one for hospitals located in other areas. In addition, under sections 1886(d)(9)(B)(iii) and (d)(9)(C)(i) of the Act, the average standardized amount per discharge must be determined for hospitals located in large urban and other areas in Puerto Rico. Hospitals in Puerto Rico are paid a blend of 50 percent of the applicable Puerto Rico standardized amount and 50 percent of a national standardized payment amount.

Section 1886(d)(2)(D) of the Act defines ''urban area'' as those areas within a Metropolitan Statistical Area (MSA). A ''large urban area'' is defined as an urban area with a population of more than 1 million. In addition, section 4009(i) of Public Law 100–203 provides that a New England County Metropolitan Area (NECMA) with a population of more than 970,000 is classified as a large urban area. As required by section 1886(d)(2)(D) of the Act, population size is determined by the Secretary based on the latest population data published by the Bureau of the Census. Urban areas that do not meet the definition of a ''large urban area'' are referred to as ''other urban areas.'' Areas that are not included in MSAs are considered ''rural areas'' under section 1886(d)(2)(D) of the Act. Payment for discharges from hospitals located in large urban areas will be based on the large urban standardized amount. Payment for discharges from hospitals located in other urban and rural areas will be based on the other standardized amount.

Based on 1999 population estimates published by the Bureau of the Census, 63 areas meet the criteria to be defined as large urban areas for FY 2002. These areas are identified in Table 4A.

3. Updating the Average Standardized Amounts

Under section 1886(d)(3)(A) of the Act, we update the average standardized amounts each year. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are proposing to update the large urban areas' and the other areas' average standardized amounts for FY 2002 using the applicable percentage increases specified in section 1886(b)(3)(B)(i) of the Act. Section 1886(b)(3)(B)(i)(XVII) of the Act as amended by section 301 of Public Law 106–554 specifies that the update factor for the standardized amounts for FY 2002 is equal to the market basket percentage increase minus 0.55 percentage points for hospitals in all areas. Section 301 also established that the update factor for FY 2003 is equal to the market basket percentage increase minus 0.55 percentage points. We are proposing to revise § 412.63 to reflect these changes.

The percentage change in the market basket reflects the average change in the price of goods and services purchased by hospitals to furnish inpatient care. The most recent forecast of the hospital

market basket increase for FY 2002 is 3.1 percent. Thus, for FY 2002, the proposed update to the average standardized amounts equals 2.55 percent for hospitals in all areas.

As in the past, we are adjusting the FY 2001 standardized amounts to remove the effects of the FY 2001 geographic reclassifications and outlier payments before applying the FY 2002 updates. That is, we are increasing the standardized amounts to restore the reductions that were made for the effects of geographic reclassification and outliers. We then apply the new offsets to the standardized amounts for outliers and geographic reclassifications for FY 2002.

Although the update factors for FY 2002 are set by law, we are required by section 1886(e)(3) of the Act to report to the Congress our initial recommendation of update factors for FY 2002 for both prospective payment hospitals and hospitals excluded from the prospective payment system. For general information purposes, we have included the report to Congress as Appendix C to this proposed rule. Our proposed recommendation on the update factors (which is required by sections 1886(e)(4)(A) and (e)(5)(A) of the Act) is set forth as Appendix D to this proposed rule.

4. Other Adjustments to the Average Standardized Amounts

a. *Recalibration of DRG Weights and Updated Wage Index—Budget Neutrality Adjustment.* Section 1886(d)(4)(C)(iii) of the Act specifies that, beginning in FY 1991, the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. As discussed in section II. of the preamble, we normalized the recalibrated DRG weights by an adjustment factor, so that the average case weight after recalibration is equal to the average case weight prior to recalibration.

Section 1886(d)(3)(E) of the Act requires us to update the hospital wage index on an annual basis beginning October 1, 1993. This provision also requires us to make any updates or adjustments to the wage index in a manner that ensures that aggregate payments to hospitals are not affected by the change in the wage index.

To comply with the requirement of section 1886(d)(4)(C)(iii) of the Act that DRG reclassification and recalibration of the relative weights be budget neutral, and the requirement in section 1886(d)(3)(E) of the Act that the updated wage index be budget neutral, we used FY 2000 discharge data to simulate payments and compared aggregate payments using the FY 2001 relative weights and wage index to aggregate payments using the proposed FY 2002 relative weights and wage index. The same methodology was used for the FY 2001 budget neutrality adjustment. (See the discussion in the September 1, 1992 final rule (57 FR 39832).) Based on this comparison, we computed a budget neutrality adjustment factor equal to 0.992493. We also adjust the Puerto Rico-specific standardized amounts for the effect of DRG reclassification and recalibration. We computed a budget neutrality adjustment factor for Puerto Rico-specific standardized amounts equal to 0.994677. These budget neutrality adjustment factors are applied to the standardized amounts without removing the effects of the FY 2001 budget neutrality adjustments. We do not remove the prior budget neutrality adjustment because estimated aggregate payments after the changes in the DRG relative weights and wage index should equal estimated aggregate payments prior to the changes. If we removed the prior year adjustment, we would not satisfy this condition.

In addition, we are proposing to apply these same adjustment factors to the hospital-specific rates that are effective for cost reporting periods beginning on or after October 1, 2001. (See the discussion in the September 4, 1990 final rule (55 FR 36073).)

b. *Reclassified Hospitals—Budget Neutrality Adjustment.* Section 1886(d)(8)(B) of the Act provides that, effective with discharges occurring on or after October 1, 1988, certain rural hospitals are deemed urban. In addition, section 1886(d)(10) of the Act provides for the reclassification of hospitals based on determinations by the Medicare Geographic Classification Review Board (MGCRB). Under section 1886(d)(10) of the Act, a hospital may be reclassified for purposes of the standardized amount or the wage index, or both.

Under section 1886(d)(8)(D) of the Act, the Secretary is required to adjust the standardized amounts so as to ensure that aggregate payments under the prospective payment system after implementation of the provisions of sections 1886(d)(8)(B) and (C) and 1886(d)(10) of the Act are equal to the aggregate prospective payments that would have been made absent these provisions. To calculate this budget neutrality factor, we used FY 2000 discharge data to simulate payments, and compared total prospective payments (including indirect medical education and disproportionate share hospital payments) prior to any reclassifications to total prospective payments after reclassifications. Based on these simulations, we are applying an adjustment factor of 0.991054 to ensure that the effects of reclassification are budget neutral.

The adjustment factor is applied to the standardized amounts after removing the effects of the FY 2001 budget neutrality adjustment factor. We note that the proposed FY 2002 adjustment reflects wage index and standardized amount reclassifications approved by the MGCRB or the Administrator as of February 28, 2001, and the effects of section 304 of Public Law 106–554 to extend wage index reclassifications for 3 years. The effects of any additional reclassification changes resulting from appeals and reviews of the MGCRB decisions for FY 2002 or from a hospital's request for the withdrawal of a reclassification request will be reflected in the final budget neutrality adjustment published in the final rule for FY 2002.

c. *Outliers.* Section 1886(d)(5)(A) of the Act provides for payments in addition to the basic prospective payments for ''outlier'' cases, cases involving extraordinarily high costs (cost outliers). Section 1886(d)(3)(B) of the Act requires the Secretary to adjust both the large urban and other area national standardized amounts by the same factor to account for the estimated proportion of total DRG payments made to outlier cases. Similarly, section 1886(d)(9)(B)(iv) of the Act requires the Secretary to adjust the large urban and other standardized amounts applicable to hospitals in Puerto Rico to account for the estimated proportion of total DRG payments made to outlier cases. Furthermore, under section 1886(d)(5)(A)(iv) of the Act, outlier payments for any year must be projected to be not less than 5 percent nor more than 6 percent of total payments based on DRG prospective payment rates.

i. *FY 2002 outlier thresholds.* For FY 2001, the fixed loss cost outlier threshold was equal to the prospective payment rate for the DRG plus the IME and DSH payments plus $17,550 (16,036 for hospitals that have not yet entered the prospective payment system for capital-related costs). The marginal cost factor for cost outliers (the percent of costs paid after costs for the case exceed the threshold) was 80 percent. We applied an outlier adjustment to the FY 2001 standardized amounts of 0.948908 for the large urban and other areas rates and 0.9409 for the capital Federal rate.

For FY 2002, we propose to establish a fixed loss cost outlier threshold equal to the prospective payment rate for the

DRG plus the IME and DSH payments plus $21,000. The capital prospective payment system is fully phased in, effective FY 2002. Therefore, we no longer are establishing a separate threshold for hospitals that have not yet entered the prospective payment system for capital-related costs. We propose to maintain the marginal cost factor for cost outliers at 80 percent.

To calculate FY 2002 outlier thresholds, we simulated payments by applying FY 2002 rates and policies to the December 2000 update of the FY 2000 MedPAR file and the December 2000 update of the provider-specific file. As we have explained in the past, to calculate outlier thresholds, we apply a cost inflation factor to update costs for the cases used to simulate payments. For FY 2000, we used a cost inflation factor of zero percent. For FY 2001, we used a cost inflation factor (or cost adjustment factor) of 1.8 percent. To set the proposed FY 2002 outlier thresholds, we are using a 2-year cost inflation factor of 5.5 percent (to inflate FY 2000 charges to FY 2002). This factor reflects our analysis of the best available cost report data as well as calculations (using the best available data) indicating that the percentage of actual outlier payments for FY 2000 is higher than we projected before the beginning of FY 2000, and that the percentage of actual outlier payments for FY 2001 will likely be higher than we projected before the beginning of FY 2001. The calculations of ''actual'' outlier payments are discussed further below.

ii. *Other changes concerning outliers.* In accordance with section 1886(d)(5)(A)(iv) of the Act, we calculated proposed outlier thresholds so that outlier payments are projected to equal 5.1 percent of total payments based on DRG prospective payment rates. In accordance with section 1886(d)(3)(E), we reduced the proposed FY 2002 standardized amounts by the same percentage to account for the projected proportion of payments paid to outliers.

As stated in the September 1, 1993 final rule (58 FR 46348), we establish outlier thresholds that are applicable to both inpatient operating costs and inpatient capital-related costs. When we modeled the combined operating and capital outlier payments, we found that using a common set of thresholds resulted in a higher percentage of outlier payments for capital-related costs than for operating costs. We project that the proposed thresholds for FY 2002 will result in outlier payments equal to 5.1 percent of operating DRG payments and 5.7 percent of capital payments based on the Federal rate.

The proposed outlier adjustment factors to be applied to the standardized amounts for FY 2002 are as follows:

	Operating standardized amounts	Capital federal rate
National	0.948910	0.974711
Puerto Rico	0.942593	0.970336

We apply the proposed outlier adjustment factors after removing the effects of the FY 2001 outlier adjustment factors on the standardized amounts.

Table 8A in section V. of this Addendum contains the updated Statewide average operating cost-to-charge ratios for urban hospitals and for rural hospitals to be used in calculating cost outlier payments for those hospitals for which the fiscal intermediary is unable to compute a reasonable hospital-specific cost-to-charge ratio. These Statewide average ratios would replace the ratios published in the August 1, 2000 final rule (65 FR 47054). Table 8B contains comparable statewide average capital cost-to-charge ratios. These average ratios would be used to calculate cost outlier payments for those hospitals for which the fiscal intermediary computes operating cost-to-charge ratios lower than 0.1908357 or greater than 1.3133937 and capital cost-to-charge ratios lower than 0.0120498 or greater than 0.1668928. This range represents 3.0 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. We note that the cost-to-charge ratios in Tables 8A and 8B would be used during FY 2002 when hospital-specific cost-to-charge ratios based on the latest settled cost report are either not available or outside the three standard deviations range.

iii. *FY 2000 and FY 2001 outlier payments.* In the August 1, 2000 final rule (65 FR 47054), we stated that, based on available data, we estimated that actual FY 2000 outlier payments would be approximately 6.2 percent of actual total DRG payments. This was computed by simulating payments using the March 2000 update of the FY 1999 bill data available at the time. That is, the estimate of actual outlier payments did not reflect actual FY 2000 bills but instead reflected the application of FY 2000 rates and policies to available FY 1999 bills. Our current estimate, using available FY 2000 bills, is that actual outlier payments for FY 2000 were approximately 7.4 percent of actual total DRG payments. We note that the MedPAR file for FY 2000 discharges continues to be updated. Thus, the data indicate that, for FY 2000, the percentage of actual outlier payments relative to actual total payments is higher than we projected before FY 2000 (and thus exceeds the percentage by which we reduced the standardized amounts for FY 2000). In fact, the data indicate that the proportion of actual outlier payments for FY 2000 exceeds 6.0 percent. Nevertheless, consistent with the policy and statutory interpretation we have maintained since the inception of the prospective payment system, we do not plan to recoup money and make retroactive adjustments to outlier payments for FY 2000.

We currently estimate that actual outlier payments for FY 2001 will be approximately 5.9 percent of actual total DRG payments, 0.8 percent higher than the 5.1 percent we projected in setting outlier policies for FY 2001. This estimate is based on simulations using the December 2000 update of the provider-specific file and the December 2000 update of the FY 2000 MedPAR file (discharge data for FY 2000 bills). We used these data to calculate an estimate of the actual outlier percentage for FY 2001 by applying FY 2001 rates and policies to available FY 2000 bills.

5. FY 2002 Standardized Amounts

The adjusted standardized amounts are divided into labor and nonlabor portions. Table 1A contains the two national standardized amounts that we are proposing to be applicable to all hospitals, except hospitals in Puerto Rico. Under section 1886(d)(9)(A)(ii) of the Act, the Federal portion of the Puerto Rico payment rate is based on the discharge-weighted average of the national large urban standardized amount and the national other standardized amount (as set forth in Table 1A). The labor and nonlabor portions of the national average standardized amounts for Puerto Rico hospitals are set forth in Table 1C. This table also includes the Puerto Rico standardized amounts.

B. Adjustments for Area Wage Levels and Cost of Living

Tables 1A and 1C, as set forth in this Addendum, contain the proposed labor-related and nonlabor-related shares that would be used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico. This section addresses two types of adjustments to the standardized amounts that are made in determining the prospective payment rates as described in this Addendum.

1. Adjustment for Area Wage Levels

Sections 1886(d)(3)(E) and 1886(d)(9)(C)(iv) of the Act require that we make an adjustment to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by multiplying the labor-related portion of the adjusted standardized amounts by the appropriate wage index for the area in which the hospital is located. In section III. of this preamble, we discuss the data and methodology for the proposed FY 2002 wage index. The proposed wage index is set forth in Tables 4A, 4B, 4C, and 4F of this Addendum.

2. Adjustment for Cost-of-Living in Alaska and Hawaii

Section 1886(d)(5)(H) of the Act authorizes an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States are taken into account in the adjustment for area wages described above. For FY 2002, we propose to adjust the payments for hospitals in Alaska and Hawaii by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table below. If the Office of Personnel Management releases revised cost-of-living adjustment factors before July 1, 2001, we will publish them in the final rule and use them in determining FY 2002 payments.

TABLE OF COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska—All areas	1.25
Hawaii:	
County of Honolulu	1.1650
County of Hawaii	1.2325
County of Kauai	1.2325
County of Maui	1.2375
County of Kalawao	1.2375

(The above factors are based on data obtained from the U.S. Office of Personnel Management.)

C. DRG Relative Weights

As discussed in section II. of the preamble, we have developed a classification system for all hospital discharges, assigning them into DRGs, and have developed relative weights for each DRG that reflect the resource utilization of cases in each DRG relative to Medicare cases in other DRGs. Table 5 of section V. of this Addendum contains the relative weights that we are proposing to use for discharges occurring in FY 2002. These factors have been recalibrated as explained in section II. of the preamble.

D. Calculation of Prospective Payment Rates for FY 2002

General Formula for Calculation of Prospective Payment Rates for FY 2002

The prospective payment rate for all hospitals located outside of Puerto Rico, except SCHs and MDHs, equals the Federal rate.

The prospective payment rate for SCHs equals whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal DRG payment rate. Section 213 of Public Law 106–554 amended section 1886(b)(3) of the Act to allow all SCHs to rebase their hospital-specific rate based on their FY 1996 cost per discharge.

The prospective payment rate for MDHs equals 100 percent of the Federal rate, or, if the greater of the updated FY 1982 hospital-specific rate or the updated FY 1987 hospital-specific rate is higher than the Federal rate, 100 percent of the Federal rate plus 50 percent of the difference between the applicable hospital-specific rate and the Federal rate.

The prospective payment rate for Puerto Rico equals 50 percent of the Puerto Rico rate plus 50 percent of a discharge-weighted average of the national large urban standardized amount and the Federal national other standardized amount.

1. Federal Rate

For discharges occurring on or after October 1, 2001 and before October 1, 2002, except for SCHs, MDHs, and hospitals in Puerto Rico, the hospital's payment is based exclusively on the Federal national rate.

The payment amount is determined as follows:

Step 1—Select the appropriate national standardized amount considering the type of hospital and designation of the hospital as large urban or other (see Table 1A in section V. of this Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the applicable wage index for the geographic area in which the hospital is located (see Tables 4A, 4B, and 4C of section V. of this Addendum).

Step 3—For hospitals in Alaska and Hawaii, multiply the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor.

Step 4—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount (adjusted, if appropriate, under Step 3).

Step 5—Multiply the final amount from Step 4 by the relative weight corresponding to the appropriate DRG (see Table 5 of section V. of this Addendum).

2. Hospital-Specific Rate (Applicable Only to SCHs and MDHs)

Section 1886(b)(3)(C) of the Act provides that SCHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 50 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus the greater of 50 percent of the updated FY 1982 or FY 1987 hospital-specific rate or 50 percent of the Federal DRG payment rate.

Section 1886(d)(5)(G) of the Act provides that MDHs are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal rate or the Federal rate plus 50 percent of the difference between the Federal rate and the greater of the updated hospital-specific rate based on FY 1982 and FY 1987 cost per discharge.

Hospital-specific rates have been determined for each of these hospitals based on either the FY 1982 cost per discharge, the FY 1987 cost per discharge or, for qualifying SCHs, the FY 1996 cost per discharge. For a more detailed discussion of the calculation of the hospital-specific rates, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772); the April 20, 1990 final rule with comment (55 FR 15150); the September 4, 1990 final rule (55 FR 35994); and the August 1, 2000 final rule (65 FR 47082).

a. *Updating the FY 1982, FY 1987, and FY 1996 Hospital-Specific Rates for FY 2002.* We are proposing to increase the hospital-specific rates by 2.55 percent (the hospital market basket percentage increase minus 0.55 percentage points) for SCHs and MDHs for FY 2002. Section 1886(b)(3)(C)(iv) of the Act provides that the update factor applicable to the hospital-specific rates for SCHs equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for SCHs in FY 2002,

is the market basket rate of increase minus 0.55 percentage points. Section 1886(b)(3)(D) of the Act provides that the update factor applicable to the hospital-specific rates for MDHs equals the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for FY 2002, is the market basket rate of increase minus 0.55 percentage points.

b. *Calculation of Hospital-Specific Rate.* For SCHs, the applicable FY 2002 hospital-specific rate would be based on the following: the hospital-specific rate calculated using the greater of the FY 1982 or FY 1987 costs, increased by the applicable update factor of 2.55 percent; or, if the hospital-specific rate based on cost per case in FY 1996 is greater than the hospital-specific rate using either the FY 1982 or the FY 1987 costs, the greater of 50 percent of the hospital-specific rate based on the FY 1982 or FY 1987 costs, increased by the applicable update factor, or 50 percent of the Federal rate plus 50 percent of its rebased FY 1996 hospital-specific rate updated through FY 2002. For MDHs, the applicable FY 2002 hospital-specific rate would be calculated by increasing the hospital's hospital-specific rate for the preceding fiscal year by the applicable update factor of 2.55 percent, which is the same as the update for all prospective payment hospitals. In addition, for both SCHs and MDHs, the hospital-specific rate would be adjusted by the budget neutrality adjustment factor (that is, by 0.992493) as discussed in section II.A.4.a. of this Addendum. The resulting rate is used in determining the payment under which rate an SCH or a MDH is paid for its discharges beginning on or after October 1, 2001.

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning On or After October 1, 2001 and Before October 1, 2002

a. *Puerto Rico Rate.* The Puerto Rico prospective payment rate is determined as follows:

Step 1—Select the appropriate adjusted average standardized amount considering the large urban or other designation of the hospital (see Table 1C of section V. of the Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate Puerto Rico-specific wage index (see Table 4F of section V. of the Addendum).

Step 3—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount.

Step 4—Multiply the result in Step 3 by 50 percent.

Step 5—Multiply the amount from Step 4 by the appropriate DRG relative weight (see Table 5 of section V. of the Addendum).

b. *National Rate.* The national prospective payment rate is determined as follows:

Step 1—Multiply the labor-related portion of the national average standardized amount (see Table 1C of section V. of the Addendum) by the appropriate national wage index (see Tables 4A and 4B of section V. of the Addendum).

Step 2—Add the amount from Step 1 and the nonlabor-related portion of the national average standardized amount.

Step 3—Multiply the result in Step 2 by 50 percent.

Step 4—Multiply the amount from Step 3 by the appropriate DRG relative weight (see Table 5 of section V. of the Addendum).

The sum of the Puerto Rico rate and the national rate computed above equals the prospective payment for a given discharge for a hospital located in Puerto Rico.

III. Proposed Changes to Payment Rates for Inpatient Capital-Related Costs for FY 2002

The prospective payment system for hospital inpatient capital-related costs was implemented for cost reporting periods beginning on or after October 1, 1991. Effective with that cost reporting period and during a 10-year transition period extending through FY 2001, hospital inpatient capital-related costs are paid on the basis of an increasing proportion of the capital prospective payment system Federal rate and a decreasing proportion of a hospital's historical costs for capital.

The basic methodology for determining Federal capital prospective rates is set forth at §§ 412.308 through 412.352. Below we discuss the factors that we used to determine the proposed Federal for FY 2002. The rates, which will be effective for discharges occurring on or after October 1, 2001. As we stated in section V of the preamble of this proposed rule, we are no longer determining an update to the capital hospital-specific rate, since FY 2001 is the last year of the 10-year transition period, and beginning in FY 2002 all hospitals (except those defined as ''new'' under § 412.300) will be paid based on 100 percent of the capital Federal rate.

For FY 1992, we computed the standard Federal payment rate for capital-related costs under the prospective payment system by updating the FY 1989 Medicare inpatient capital cost per case by an actuarial estimate of the increase in Medicare inpatient capital costs per case. Each year after FY 1992, we update the standard Federal rate, as provided in § 412.308(c)(1), to account for capital input price increases and other factors. Also, § 412.308(c)(2) provides that the Federal rate is adjusted annually by a factor equal to the estimated proportion of outlier payments under the Federal rate to total capital payments under the Federal rate. In addition, § 412.308(c)(3) requires that the Federal rate be reduced by an adjustment factor equal to the estimated proportion of payments for (regular and special) exceptions under § 412.348. Furthermore, § 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that the annual DRG reclassification and the recalibration of DRG weights and changes in the geographic adjustment factor are budget neutral. For FYs 1992 through 1995, § 412.352 required that the Federal rate also be adjusted by a budget neutrality factor so that aggregate payments for inpatient hospital capital costs were projected to equal 90 percent of the payments that would have been made for capital-related costs on a reasonable cost basis during the fiscal year. That provision expired in FY 1996. Section 412.308(b)(2) describes the 7.4 percent reduction to the rate that was made in FY 1994, and § 412.308(b)(3) describes the 0.28 percent reduction to the rate made in FY 1996 as a result of the revised policy of paying for transfers. In the FY 1998 final rule with comment period (62 FR 45966), we implemented section 4402 of Public Law 105–33, which requires that for discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted standard Federal rate is reduced by 17.78 percent. A small part of that reduction will be restored effective October 1, 2002.

To determine the appropriate budget neutrality adjustment factor and the regular exceptions payment adjustment, we developed a dynamic model of Medicare inpatient capital-related costs, that is, a model that projects changes in Medicare inpatient capital-related costs over time. With the expiration of the budget neutrality provision, the model is still used to estimate the regular exceptions payment adjustment and other factors. The model and its application are described in greater detail in Appendix B of this proposed rule.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment

formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, as a result of section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate.

Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under the prospective payment system for inpatient capital-related costs. Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital.

A. Determination of Federal Inpatient Capital-Related Prospective Payment Rate Update

In the August 1, 2000 final rule (65 FR 47122), we established a Federal rate of $382.03 for FY 2001. In a separate interim final rule with comment, as a result of implementing section 301(a) of Public Law 106–554 we are establishing a Federal rate of $380.85 for discharges occurring on or after April 1, 2001 and before October 1, 2001. In accordance with section 547 of Public Law 106–554, the special increases and adjustments provided by Public Law 106–554 effective between April and October 2001 do not apply for discharges occurring after FY 2001 and should not be included in determining the payment rates in subsequent years. Thus, the adjustments and rates published in the August 1, 2000 final rule were used in determining the proposed FY 2002 rates. As a result of the changes we are proposing to the factors used to establish the Federal rate in this addendum, the proposed FY 20021 Federal rate is $389.09.

In the discussion that follows, we explain the factors that were used to determine the proposed FY 2002 Federal rate. In particular, we explain why the proposed FY 2002 Federal rate has increased 1.85 percent compared to the FY 2001 Federal rate (published in the August 1, 2000 final rule (65 FR 47122)). We also estimate aggregate capital payments will increase by 3.80 percent during this same period. This increase is primarily due to the increase in the number of hospital admissions and the increase in case-mix. This increase in capital payments is less than last year (5.48 percent) because with the end of the transition period the remaining hold harmless hospitals receiving ''cost-based'' payments will begin being paid based on 100 percent of the Federal rate.

Total payments to hospitals under the prospective payment system are relatively unaffected by changes in the capital prospective payments. Since capital payments constitute about 10 percent of hospital payments, a 1 percent change in the capital Federal rate yields only about 0.1 percent change in actual payments to hospitals. Aggregate payments under the capital prospective payment transition system are estimated to increase in FY 2002 compared to FY 2001.

1. Standard Federal Rate Update

a. *Description of the Update Framework.* Under § 412.308(c)(1), the standard Federal rate is updated on the basis of an analytical framework that takes into account changes in a capital input price index and other factors. The update framework consists of a capital input price index (CIPI) and several policy adjustment factors. Specifically, we have adjusted the projected CIPI rate of increase as appropriate each year for case-mix index-related changes, for intensity, and for errors in previous CIPI forecasts. The proposed update factor for FY 2002 under that framework is 1.1 percent. This proposal is based on a projected 0.5 percent increase in the CIPI, a 0.3 percent adjustment for intensity, a 0.0 percent adjustment for case-mix, a 0.0 percent adjustment for the FY 2000 DRG reclassification and recalibration, and a forecast error correction of 0.3 percent. We explain the basis for the FY 2002 CIPI projection in section II.D. of this Addendum. Below we describe the policy adjustments that have been applied.

The case-mix index is the measure of the average DRG weight for cases paid under the prospective payment system. Because the DRG weight determines the prospective payment for each case, any percentage increase in the case-mix index corresponds to an equal percentage increase in hospital payments.

The case-mix index can change for any of several reasons:

- The average resource use of Medicare patients changes (''real'' case-mix change);
- Changes in hospital coding of patient records result in higher weight DRG assignments (''coding effects''); and
- The annual DRG reclassification and recalibration changes may not be budget neutral (''reclassification effect'').

We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher weighted DRGs but do not reflect higher resource requirements. In the update framework for the prospective payment system for operating costs, we adjust the update upwards to allow for real case-mix change, but remove the effects of coding changes on the case-mix index. We also remove the effect on total payments of prior changes to the DRG classifications and relative weights, in order to retain budget neutrality for all case-mix index-related changes other than patient severity. (For example, we are adjustinged for the effects of the FY 2000 DRG reclassification and recalibration as part of our FY 2002 update recommendation.) We have adopted this case-mix index adjustment in the capital update framework as well.

For FY 2002, we are projecting a 1.0 percent increase in the case-mix index. We estimate that real case-mix increase will equal 1.0 percent in FY 2002. Therefore, the proposed net adjustment for case-mix change in FY 2002 is 0.0 percentage points.

We estimate that FY 2000 DRG reclassification and recalibration will result in a 0.0 percent change in the case-mix when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the DRGs. Therefore, we are making a 0.0 percent adjustment for DRG reclassification and recalibration in the update recommendation for FY 2002.

The capital update framework contains an adjustment for forecast error. The input price index forecast is based on historical trends and relationships ascertainable at the time the update factor is established for the upcoming year. In any given year there may be unanticipated price fluctuations that may result in differences between the actual increase in prices and the forecast used in calculating the update factors. In setting a prospective payment rate under the framework, we make an adjustment for forecast error only if our estimate of the change in the capital input price index for any year is off by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of the forecast error. A

forecast error of 0.3 percentage points was calculated for the FY 2000 update. That is, current historical data indicate that the FY 2000 CIPI used in calculating the forecasted FY 2000 update factor (0.6 percent) understated the actual realized price increases (0.9 percent) by 0.3 percent. This under-prediction was due to prices from municipal bond yields declining slower than expected. Therefore, we are making a 0.3 percent adjustment for forecast error in the update for FY 2002.

Under the capital prospective payment system framework, we also make an adjustment for changes in intensity. We calculate this adjustment using the same methodology and data as in the framework for the operating prospective payment system. The intensity factor for the operating update framework reflects how hospital services are utilized to produce the final product, that is, the discharge. This component accounts for changes in the use of quality-enhancing services, changes in within-DRG severity, and expected modification of practice patterns to remove cost-ineffective services.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. The use of total charges in the calculation of the proposed intensity factor makes it a total intensity factor, that is, charges for capital services are already built into the calculation of the factor. Therefore, we have incorporated the intensity adjustment from the operating update framework into the capital update framework. Without reliable estimates of the proportions of the overall annual intensity increases that are due, respectively, to ineffective practice patterns and to the combination of quality-enhancing new technologies and within-DRG complexity, we assume, as in the revised operating update framework, that one-half of the annual increase is due to each of these factors. The capital update framework thus provides an add-on to the input price index rate of increase of one-half of the estimated annual increase in intensity to allow for within-DRG severity increases and the adoption of quality-enhancing technology.

For FY 2002, we have developed a Medicare-specific intensity measure based on a 5-year average using FY 1996 through 2000 data. In determining case-mix constant intensity, we found that observed case-mix increase was 1.6 percent in FY 1996, 0.3 percent in FY 1997, −0.4 percent in FY 1998, and −0.3 in FY 1999, and −0.7 percent in FY 2000. Since we found an increase in case-mix of 1.6 for FY 1996, which was outside of the range of 1.0 to 1.4 percent, we estimate that real case-mix increase was 1.0 to 1.4 percent for that year. The estimate of 1.0 to 1.4 percent is supported by past studies of case-mix change by the RAND Corporation. The most recent study was ''Has DRG Creep Crept Up? Decomposing the Case Mix Index Change Between 1987 and 1988'' by G. M. Carter, J. P. Newhouse, and D. A. Relles, R–4098–HCFA/ProPAC (1991). The study suggested that real case-mix change was not dependent on total change, but was usually a fairly steady 1.0 to 1.4 percent per year. We use 1.4 percent as the upper bound because the RAND study did not take into account that hospitals may have induced doctors to document medical records more completely in order to improve payment. Following that study, we consider up to 1.4 percent of observed case-mix change as real for FY 1996 through FY 2000. Based on this analysis, we believe that all of the observed case-mix increase for FY 1997, FY 1998, and FY 1999, and FY 2000 is real. The increases for FY 1996 was in excess of our estimate of real case-mix increase.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. Based upon an upper limit of 1.0 percent real case-mix increase, we estimate that case-mix constant intensity increased by an average 0.3 percent during FYs 1996 through 2000, for a cumulative increase of 1.4 percent given estimates of real case-mix of 1.0 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, and −0.3 for FY 1999, and −0.7 percent for FY 2000. Based upon an upper limit of 1.4 percent real case-mix increase, we estimate that case-mix constant intensity increase by an average 0.2 percent during FYs 1996 through 2000, for a cumulative increase of 1.2 percent, given that real case-mix increase was 1.4 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, −0.3 for FY 1999, and −0.7 percent for FY 2000. Since we estimate that intensity has increased during that period, we are recommending a 0.3 percent intensity adjustment for FY 2002.

b. *Comparison of HCFA and MedPAC Update Recommendations.* In its March 2001 Report to Congress, MedPAC presented a combined operating and capital update for hospital inpatient prospective payment system payments for FY 2002. Currently, section 1886(b)(3)(B)(i)(XVII) of the Act sets forth the FY 2002 percentage increase in the prospective payment system operating cost standardized amounts. The prospective payment system capital update is set at the discretion of the Secretary under the framework outlined in § 412.308(c)(1).

For FY 2002, MedPAC's update framework supports a combined operating and capital update for hospital inpatient prospective payment system payments of 1.5 percent to 3.0 percent (or between the increase in the combined operating and capital market basket minus 1.3 percentage points and the increase in the combined operating and capital market basket plus 0.2 percentage points). MedPAC also notes that while the number of hospitals with negative inpatient hospital margins have increased in FY 1999 (from 33.7 percent in FY 1998 to 36.7 percent in FY 1999 (page 71)), overall high inpatient Medicare margins generally offset hospital losses on other lines of Medicare services. MedPAC continues to project substantially improved hospital total margins for FY 2000 based on performance in the first half of the fiscal year (page 72).

MedPAC's FY 2002 combined operating and capital update framework uses a weighted average of HCFA's forecasts of the operating (PPS Input Price Index) and capital (CIPI) market baskets. This combined market basket is used to develop an estimate of the change in overall operating and capital prices. MedPAC calculated a combined market basket forecast by weighting the operating market basket forecast by 0.92 and the capital market basket forecast by 0.08, since operating costs are estimated to represent 92 percent of total hospital costs (capital costs are estimated to represent the remaining 8 percent of total hospital costs). MedPAC's combined market basket for FY 2002 is estimated to increase by 2.8 percent, based on HCFA's December 2000 forecasted operating market basket increase of 3.0 percent and HCFA's December 2000 forecasted capital market basket increase of 0.8 percent.

Response: As we stated in the August 1, 2000 final rule (65 FR 47119), our long-term goal is to develop a single update framework for operating and capital prospective payments and that we would begin development of a unified framework. However, we have not yet developed such a single framework as the actual operating system update has been determined by Congress through FY 2003 (as amended by Public Law 106–554). In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to

facilitate the eventual development of a unified framework.

Our recommendation for updating the prospective payment system capital Federal rate is supported by the following analyses that measure changes in scientific and technological advances, practice pattern changes, changes in case-mix, the effect of reclassification and recalibration, and forecast error correction. MedPAC recommends a 1.5 to 3.0 percent combined operating and capital update for hospital inpatient prospective payments. Under our existing capital update framework, we are recommending a 1.1 percent update to the capital Federal rate. For purposes of comparing HCFA's capital update recommendation and MedPAC's update recommendation for FY 2002, we have isolated the capital component of MedPAC's combined market basket forecast, which was based on HCFA's December 2000 CIPI forecast of 0.8 percent. As a result, MedPAC's update recommendation for FY 2002 for capital payments is between −0.9 percent and 0.6 percent (see Table 1).

There are some differences between HCFA's and MedPAC's update frameworks, which account for the difference in the respective update recommendations. In its combined FY 2002 update recommendation, MedPAC uses HCFA's capital input price index (the CIPI) as the starting point for estimating the change in prices since the previous year. HCFA's CIPI includes price measures for interest expense, which are an indicator of the interest rates facing hospitals during their capital purchasing decisions. Previously, MedPAC's capital market basket did not include interest expense; instead it included a financing policy adjustment when necessary to account for the prolonged changes in interest rates. HCFA's CIPI is vintage-weighted, meaning that it takes into account price changes from past purchases of capital when determining the current period update. In the past, MedPAC's capital market basket was not vintage-weighted, and only accounted for the current year price changes. Beginning last year, both HCFA's and MedPAC's FY 2002 update frameworks use HCFA's CIPI. MedPAC used HCFA's December 2000 CIPI in preparing its FY 2002 recommendation, which was forecast at 0.8 percent. Currently, the CIPI is forecast at 0.5 percent (March 2001).

MedPAC and HCFA also differ in the adjustments they make to their price indices. (See Table 1 for a comparison of HCFA and MedPAC's update recommendations.) MedPAC makes an adjustment for scientific and technological advances, which is offset by a fixed standard for productivity growth and one-time factors. HCFA has not adopted a separate adjustment for capital science and technology or productivity and efficiency.

In addition, MedPAC includes, when appropriate, an adjustment for one-time factors expected to affect costs in FY 2002 and the removal of the adjustment for FY 2002 one-time factors in its science and technology adjustment. MedPAC concluded that a one-time adjustment of 0.5 percent for the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulatory requirements be reflected in its FY 2002 payment update. Additionally, since MedPAC believes that the costs associated with one-time factors should not be built permanently into the rates, it recommended that the FY 2002 payment rates be reduced by 0.5 percent to offset the increase it recommended in the FY 2000 update for the costs associated with year 2000 (Y2K) computer improvements. Thus, MedPAC's combined FY 2002 adjustment for science and technological advances is 0.0 percent to 0.5 percent.

Instead, we have identified a total intensity factor, which reflects scientific and technological advances, but we have not identified an adequate total productivity measure. MedPAC also includes a site-of-care substitution adjustment (unbundling of the payment unit) to account for the decline in the average length of Medicare acute inpatient stays. This adjustment is designed to shift funding along with associated costs when Medicare patients are discharged to postacute settings that replace acute impatient days. Other factors, such as technological advances that allow for a decreased need in follow-up care and BBA mandated policy on payment for transfer cases that limits payments within certain DRGs, are reflected in the site-of-care substitution adjustment as well. We agree with MedPAC that the site-of-care substitution effect is real and believe that it is factored into our intensity recommendation.

For FY 2002, MedPAC recommends a −2.0 to −1.0 percent combined adjustment for site-of-care substitutions. MedPAC recommends a 0.0 to a 0.5 percent combined adjustment for scientific and technological advances, which was offset by a fixed productivity standard of 0.5 percent and a 0.0 percent adjustment for one-time factors for FY 2002. We recommend a 0.3 intensity adjustment.

Additionally, MedPAC includes an adjustment for Medicare policy changes affecting financial status in its section of factors affecting current level of payments in its FY 2002 update recommendation. While MedPAC's update framework has not considered such costs in the past, MedPAC believes that it is appropriate to account for significant costs incurred as a result of new Medicare policy. For FY 2002, MedPAC believes that legislated updates will match cost growth and that the overall net affects of legislative changes (from Public Law 105–33, Public Law 106–113, and Public Law 106–554) will be small. Thus, it did not recommend any additional allowance for these costs for FY 2002. Accordingly, MedPAC recommended a 0.0 percent adjustment for Medicare policy changes.

MedPAC makes a two-part adjustment for case-mix changes, which takes into account changes in case-mix in the past year. It recommends a 0.0 percent combined adjustment for DRG coding change and a 0.0 percent combined adjustment for within-DRG complexity change. This results in a combined total case-mix adjustment of 0.0 percent. We recommend a 0.0 adjustment for case-mix, since we are projecting a 1.0 percent increase in case-mix index and we estimate that real case-mix increase will equal 1.0 percent in FY 2002.

We recommend a 0.3 percent adjustment for forecast error correction. MedPAC's combined FY 2002 update recommendation includes a 0.7 percent adjustment for forecast error correction. However, it noted that this forecast error adjustment is a result of the difference between the forecasted FY 2000 operating market basket of 2.9 percent and the actual FY 2000 operating market basket increase of 3.6 percent. The FY 2000 capital market basket was forecast at 0.6 percent, while the actual observed increase equaled 0.9 percent for capital costs. Therefore, we have included 0.3 percent adjustment for FY 2000 forecast error correction in the comparison of MedPAC's and HCFA's update recommendations for FY 2002 shown below in Table 1.

We applied MedPAC's ratio of hospital capital costs to total hospital costs (8 percent) to the adjustment factors in its update framework for comparison with HCFA's capital update framework. The net result of these adjustments is that MedPAC has recommended a −0.9 to 0.6 percent update to the capital Federal rate for FY 2002. MedPAC believes that the annual updates to the capital and operating payments under the prospective payment system should not differ substantially, even though they are determined separately, since they correspond to costs generated by providing the same inpatient hospital

services to the same Medicare patients. We describe the basis for our 1.1 percent total capital update for FY 2002 in the preceding section. Our recommendation of 1.1 percent is 0.5 percent higher than the upper limit of the range recommended by MedPAC due to MedPAC's −2.0 to −1.0 percent combined (operating and capital) adjustment for unbundling of the payment unit for FY 2002. If we had applied only the portion of that adjustment attributable to capital-related services, our proposed update recommendation would most likely have fallen with in the range of MedPAC's update recommendation for capital for FY 2002. While in previous years, our update recommendation has fallen within the range recommended by MedPAC, since MedPAC has developed its combined operating and capital update recommendation beginning in FY 2001, we have only been outside of that range by 0.5 percent. For FY 2001, our update recommendation of 0.9 percent was only 0.5 percentage points below MedPAC's lower limit of its FY 2002 recommendation.

TABLE 1.—HCFA'S FY 2002 UPDATE FACTOR AND MEDPAC'S RECOMMENDATION

	HCFA's update factor	MedPAC's recommendation
Capital Input Price Index	0.5	0.8[1]
Policy Adjustment Factors:		
Intensity	0.3	([2])
Science and Technology	.....	0.0 to 0.5.
Real within DRG Change	.....	([3])
Site-of-Care Substitution	.....	−2.0 to −1.0.
One-Time Factors	([4])	0.0
Subtotal	0.3	−2.0 to −0.5.
Medicare Policy Change;	.....	0.0
Case-Mix Adjustment Factors:		
Projected Case-Mix Change	−1.0	
Real Across DRG Change	1.0	
Coding Change	.....	0.0
Real within DRG Change	([4])	0.0
Subtotal	0.0	0.0
Effect of FY 2000 Reclassification and Recalibration	0.0	
Forecast Error Correction	0.3	0.3
Total Update	1.1	−0.9 to 0.6.

[1] Used HCFA's December 2000 capital marker basket forecast in its combined update recommendation.
[2] Included in MedPAC's productivity offset in its science and technology adjustment.
[3] Included in MedPAC's case-mix adjustment.
[4] Included in HCFA's intensity factor.

2. Outlier Payment Adjustment Factor

Section 412.312(c) establishes a unified outlier methodology for inpatient operating and inpatient capital-related costs. A single set of thresholds is used to identify outlier cases for both inpatient operating and inpatient capital-related payments. Section 412.308(c)(2) provides that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of capital-related outlier payments to total inpatient capital-related PPS payments. The outlier thresholds are set so that operating outlier payments are projected to be 5.1 percent of total operating DRG payments.

In the August 1, 2000 final rule, we estimated that outlier payments for capital in FY 2001 would equal 5.91 percent of inpatient capital-related payments based on the Federal rate (65 FR 47121). Accordingly, we applied an outlier adjustment factor of 0.9409 to the Federal rate. Based on the thresholds as set forth in section II.A.4.d. of this Addendum, we estimate that outlier payments for capital will equal 5.74 percent of inpatient capital-related payments based on the Federal rate in FY 2002. Therefore, we are proposing an outlier adjustment factor of 0.9426 to the Federal rate. Thus, the projected percentage of capital outlier payments to total capital standard payments for FY 2002 is lower than the percentage for FY 2001.

The outlier reduction factors are not built permanently into the rates; that is, they are not applied cumulatively in determining the Federal rate. As explained previously, in accordance with section 547 of Public Law 106–554, the proposed FY 2002 rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). Therefore, the proposed net change in the outlier adjustment to the Federal rate for FY 2002 is 1.0018 (0.9426/0.9409). The outlier adjustment increases the FY 2002 Federal rate by 0.18 percent compared with the FY 2001 outlier adjustment.

3. Budget Neutrality Adjustment Factor for Changes in DRG Classifications and Weights and the Geographic Adjustment Factor

Section 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that aggregate payments for the fiscal year based on the Federal rate after any changes resulting from the annual DRG reclassification and recalibration and changes in the geographic adjustment factor (GAF) are projected to equal aggregate payments that would have been made on the basis of the Federal rate without such changes. We use the actuarial model, described in Appendix B of this proposed rule, to estimate the aggregate payments that would have been made on the basis of the Federal rate without changes in the DRG classifications and weights and in the GAF. We also use the model to estimate aggregate payments that would be made on the basis of the Federal rate as a result of those changes. We then use

these figures to compute the adjustment required to maintain budget neutrality for changes in DRG weights and in the GAF.

For FY 2001, we calculated a GAF/DRG budget neutrality factor of 0.9979. For FY 2002, we are proposing a GAF/DRG budget neutrality factor of 0.9913. The GAF/DRG budget neutrality factors are built permanently into the rates; that is, they are applied cumulatively in determining the Federal rate. This follows from the requirement that estimated aggregate payments each year be no more than they would have been in the absence of the annual DRG reclassification and recalibration and changes in the GAF. As explained previously, in accordance with section 547 of Public Law 106–554, the proposed FY 2002 adjustments and rates are based on the FY 2001 adjustment and rates published in the August 1, 2000 final rule (65 FR 47122). The proposed incremental change in the adjustment from FY 2001 to FY 2002 is 0.9913. The proposed cumulative change in the rate due to this adjustment is 0.9906 (the product of the incremental factors for FY 1993, FY 1994, FY 1995, FY 1996, FY 1997, FY 1998, FY 1999, FY 2000, FY 2001 and the proposed incremental factor for FY 2002: $0.9980 \times 1.0053 \times 0.9998 \times 0.9994 \times 0.9987 \times 0.9989 \times 1.0028 \times 0.9985 \times 0.9979 \times 0.9913 = 0.9906$).

This proposed factor accounts for DRG reclassifications and recalibration and for changes in the GAF. It also incorporates the effects on the GAF of FY 2002 geographic reclassification decisions made by the MGCRB compared to FY 2001 decisions. However, it does not account for changes in payments due to changes in the DSH and IME adjustment factors or in the large urban add-on.

4. Exceptions Payment Adjustment Factor

Section 412.308(c)(3) requires that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of additional payments for exceptions under § 412.348 relative to total capital payments payments under the hospital-specific rate and Federal rate. We use the model originally developed for determining the budget neutrality adjustment factor to determine the regular exceptions payment adjustment factor. We describe that model in Appendix B to this proposed rule. An adjustment for regular exceptions is necessary for determining the FY 2002 rates because we will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001 but ending in FY 2002 in accordance with § 412.312(c)(3). In FY 2003 and later, no payments will be made under the regular exceptions provision, hence we will only compute a budget neutrality adjustment under § 412.348(d) for special exceptions. We describe the proposed methodology to determine to special exceptions adjustment in section V.D. of this proposed rule. For FY 2002, the exceptions adjustment is a combination of the adjustment that would be made under the regular exceptions provision and under the special exceptions provision under § 412.348(g).

For FY 2001, we estimated that exceptions payments would equal 2.15 percent of aggregate payments based on the Federal rate and the hospital-specific rate. Therefore, we applied an exceptions reduction factor of 0.9785 (1 − 0.0215) in determining the Federal rate. For this proposed rule, we estimate that regular exceptions payments for FY 2002 will equal 0.63 percent of aggregate payments based on the Federal rate we estimate that special exceptions payments for FY 2002 will equal 0.12 percent of aggregate payments based on the Federal rate. Therefore, we estimate that total exceptions payments for FY 2002 will equal 0.75 percent (0.63 + 0.12 = 0.75) of aggregate payments based on the Federal rate and we are proposing an exceptions payment reduction factor of 0.9925 (1 − 0.0075) to the Federal rate for FY 2002. The proposed exceptions reduction factor for FY 2002 is 1.43 percent higher than the factor for FY 2001 published in the August 1, 2000 final rule. This increase is primarily due to the expiration of the regular exceptions provision and the narrowly defined nature of the special exceptions policy.

The exceptions reduction factors are not built permanently into the rates; that is, the factors are not applied cumulatively in determining the Federal rate. As explained previously, in accordance with section 547 of Public Law 106–554, the proposed FY 2002 adjustments and rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). Therefore, the proposed net adjustment to the FY 2002 Federal rate is 0.9925/0.9785, or 1.0143.

5. Standard Capital Federal Rate for FY 2002

For FY 2001, the capital Federal rate was $383.06 for discharges occurring between October 1, 2000 and April 1, 2001. As a result of implementing section 301(a) of Public Law 106–554, for discharges occurring from April to October 2001, the capital Federal rate was $380.85. However, as explained previously, in accordance with section 547 of Public Law 106–554, the proposed FY 2002 adjustments and rates are based on the FY 2001 adjustments and rates published in the August 1, 2000 final rule (65 FR 47122). As a result of changes we are proposing to the factors used to establish the Federal rate, the proposed FY 2002 Federal rate is $389.09. The proposed Federal rate for FY 2002 was calculated as follows:

- The proposed FY 2002 update factor is 1.0110; that is, the proposed update is 1.10 percent.
- The proposed FY 2002 budget neutrality adjustment factor that is applied to the standard Federal payment rate for changes in the DRG relative weights and in the GAF is 0.9913.
- The proposed FY 2002 outlier adjustment factor is 0.9426.
- The proposed FY 2002 (regular and special) exceptions payments adjustment factor is 0.9925.

Since the Federal rate has already been adjusted for differences in case-mix, wages, cost-of-living, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients, we propose to make no additional adjustments in the standard Federal rate for these factors other than the budget neutrality factor for changes in the DRG relative weights and the GAF.

We are providing a chart that shows how each of the factors and adjustments for FY 2002 affected the computation of the proposed FY 2002 Federal rate in comparison to the FY 2001 Federal rate. The proposed FY 2002 update factor has the effect of increasing the Federal rate by 1.10 percent compared to the FY 2001 rate published in the August 1, 2000 final rule, while the proposed geographic and DRG budget neutrality factor has the effect of decreasing the Federal rate by 0.87 percent. The proposed FY 2002 outlier adjustment factor has the effect of increasing the Federal rate by 0.18 percent compared to the FY 2001 rate published in the August 1, 2000 final rule. The proposed FY 2002 (regular and special) exceptions reduction factor has the effect of increasing the Federal rate by 1.43 percent compared to the exceptions reduction for FY 2001. The combined effect of all the proposed changes is to increase the proposed Federal rate by 1.85 percent compared to the Federal rate for FY 2001.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2001 FEDERAL RATE AND PROPOSED FY 2002 FEDERAL RATE

	FY 2001	Proposed FY 2002	Change	Percent change
Update factor [1]	1.0090	1.0110	1.0110	1.10
GAF/DRG Adjustment Factor [1]	0.9979	0.9913	0.9913	−0.87
Outlier Adjustment Factor [2]	0.9409	0.9426	1.0018	0.18
Exceptions Adjustment Factor [2]	0.9785	0.9925	1.0143	1.43
Federal Rate	$382.03	$38.09	1.018	1.85

[1] The update factor and the GAF/DRG budget neutrality factors are built permanently into the rates. Thus, for example, the incremental change from FY 2000 to FY 2001 resulting from the application of the 0.9913 GAF/DRG budget neutrality factor for FY 2001 is 0.9913.

[2] The outlier reduction factor and the exceptions reduction factor are not built permanently into the rates; that is, these factors are not applied cumulatively in determining the rates. Thus, for example, the net change resulting from the application of the FY 2001 outlier reduction factor is 0.9426/0.9409, or 1.0018.

6. Special Rate for Puerto Rico Hospitals

As explained at the beginning of section IV of this Addendum, hospitals in Puerto Rico are paid based on 50 percent of the Puerto Rico rate and 50 percent of the Federal rate. The Puerto Rico rate is derived from the costs of Puerto Rico hospitals only, while the Federal rate is derived from the costs of all acute care hospitals participating in the prospective payment system (including Puerto Rico). To adjust hospitals' capital payments for geographic variations in capital costs, we apply a GAF to both portions of the blended rate. The GAF is calculated using the operating prospective payment system wage index and varies depending on the MSA or rural area in which the hospital is located. We use the Puerto Rico wage index to determine the GAF for the Puerto Rico part of the capital-blended rate and the national wage index to determine the GAF for the national part of the blended rate.

Because we implemented a separate GAF for Puerto Rico in FY 1998, we also apply separate budget neutrality adjustments for the national GAF and for the Puerto Rico GAF. However, we apply the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. The Puerto Rico GAF budget neutrality factor is 0.99941, while the DRG adjustment is 0.9943, for a combined cumulative adjustment of 0.9937.

In computing the payment for a particular Puerto Rico hospital, the Puerto Rico portion of the rate (50 percent) is multiplied by the Puerto Rico-specific GAF for the MSA in which the hospital is located, and the national portion of the rate (50 percent) is multiplied by the national GAF for the MSA in which the hospital is located (which is computed from national data for all hospitals in the United States and Puerto Rico). In FY 1998, we implemented a 17.78 percent reduction to the Puerto Rico rate as a result of Public Law 105–33.

For FY 2001, before application of the GAF, the special rate for Puerto Rico hospitals was $185.06. As explained previously, in accordance with section 547 of Public Law 106–554, the proposed FY 2002 adjustments and rates are based on the FY 2001 rates published in the August 1, 2000 final rule. With the changes we are proposing to the factors used to determine the rate, the proposed FY 2002 special rate for Puerto Rico is $188.67.

B. Calculation of Inpatient Capital-Related Prospective Payments for FY 2002

With the end of the capital prospective payment system transition period, all hospitals (except those defined as ''new'' under § 412.300(b)) will be paid based on 100 percent of the Federal rate in FY 2002. The applicable Federal rate was determined by making adjustments as follows:

- For outliers, by dividing the standard Federal rate by the outlier reduction factor for that fiscal year; and
- For the payment adjustments applicable to the hospital, by multiplying the hospital's GAF, disproportionate share adjustment factor, and IME adjustment factor, when appropriate.

For purposes of calculating payments for each discharge during FY 2002, the standard Federal rate is adjusted as follows:

(Standard Federal Rate) × (DRG weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA adjustment for hospitals located in Alaska and Hawaii) × (1 + Disproportionate Share Adjustment Factor + IME Adjustment Factor, if applicable).

The result is the adjusted Federal rate.

Hospitals also may receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments. The proposed outlier thresholds for FY 2002 are in section II.A.4.c. of this Addendum. For FY 2002, a case qualifies as a cost outlier if the cost for the case (after standardization for the indirect teaching adjustment and disproportionate share adjustment) is greater than the prospective payment rate for the DRG plus $20,900.

During the capital prospective payment system transition period, a hospital also may receive an additional payment under the regular an exceptions process through its cost reporting period beginning before October 1, 2001 but ending in FY 2002 if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs. The minimum payment level is established by class of hospital under § 412.348(c). Under § 412.348(d), the amount of a regular exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to that system. Any amount by which the hospital's cumulative payments exceed its cumulative minimum payment is deducted from the additional payment that would otherwise be payable for a cost reporting period.

An eligible hospital may qualify for a special exception payment under § 412.348(g) through the 10th year beyond the end of the capital transition period if meets (1) a project need requirement described at § 412.348(g)(2), which in the case of certain urban hospitals includes an excess capacity test; and (2) a project size requirement as described at § 412.348(g)(5). Eligible hospitals include sole community hospitals, urban hospitals with at lest 100 beds that have a DSH percentage of at least

20.2 percent, and hospitals that have a combined Medicare and Medicaid inpatient utilization of at least 70 percent. Under § 412.348(g)(8), the amount of a special exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment level. This amount is offset by (1) any amount by which a hospital's cumulative capital payments exceed its cumulative minimum payment levels applicable under the regular exceptions process for cost reporting periods beginning during which the hospital has been subject to capital PPS; and (2) any amount by which a hospital's current year operating and capital payments (excluding 75 percent of operating DSH payments) exceed its operating and capital costs. The minimum payment level is 70 percent for all eligible hospitals under § 412.348(g).

New hospitals as defined under § 412.300 are exempted from the capital prospective payment system for their first 2 years of operation and are paid 85 percent of their reasonable costs during that period. A new hospital's old capital costs are its allowable costs for capital assets that were put in use for patient care on or before the later of December 31, 1990, or the last day of the hospital's base year cost reporting period, and are subject to the rules pertaining to old capital and obligated capital as of the applicable date. Effective with the third year of operation, we will pay the hospital under either the fully prospective methodology, using the appropriate transition blend in that Federal fiscal year, or the hold-harmless methodology. If the hold-harmless methodology is applicable, the hold-harmless payment for assets in use during the base period would extend for 8 years, even if the hold-harmless payments extend beyond the normal transition period.

C. Capital Input Price Index

1. Background

Like the operating input price index, the capital input price index (CIPI) is a fixed-weight price index that measures the price changes associated with costs during a given year. The CIPI differs from the operating input price index in one important aspect—the CIPI reflects the vintage nature of capital, which is the acquisition and use of capital over time. Capital expenses in any given year are determined by the stock of capital in that year (that is, capital that remains on hand from all current and prior capital acquisitions). An index measuring capital price changes needs to reflect this vintage nature of capital. Therefore, the CIPI was developed to capture the vintage nature of capital by using a weighted-average of past capital purchase prices up to and including the current year.

Using Medicare cost reports, American Hospital Association (AHA) data, and Securities Data Company data, a vintage-weighted price index was developed to measure price increases associated with capital expenses. We periodically update the base year for the operating and capital input prices to reflect the changing composition of inputs for operating and capital expenses. Currently, the CIPI is based to FY 1992 and was last rebased in 1997. The most recent discussion of the cost category weights in the CIPI was in the final rule with comment period for FY 1998 published on August 29, 1997 (62 FR 46050).

2. Forecast of the CIPI for Federal Fiscal Year 2001

We are forecasting the CIPI to increase 0.9 percent for FY 2002. This reflects a projected 1.5 percent increase in vintage-weighted depreciation prices (building and fixed equipment, and movable equipment) and a 3.5 percent increase in other capital expense prices in FY 2002, partially offset by a 1.3 percent decline in vintage-weighted interest rates in FY 2002. The weighted average of these three factors produces the 0.9 percent increase for the CIPI as a whole.

IV. Proposed Changes to Payment Rates for Excluded Hospitals and Hospital Units: Rate-of-Increase Percentages

The inpatient operating costs of hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in regulations at § 413.40. Under these limits, a hospital-specific target amount (expressed in terms of the inpatient operating cost per discharge) is set for each hospital, based on the hospital's own historical cost experience trended forward by the applicable rate-of-increase percentages (update factors). In the case of a psychiatric hospital or hospital unit, a rehabilitation hospital or hospital unit, or a long-term care hospital, the target amount may not exceed the updated figure for the 75th percentile of target amounts adjusted to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital for hospitals and units in the same class (psychiatric, rehabilitation, and long-term care) for cost reporting periods ending during FY 1996. The target amount is multiplied by the number of Medicare discharges in a hospital's cost reporting period, yielding the ceiling on aggregate Medicare inpatient operating costs for the cost reporting period.

Each hospital-specific target amount is adjusted annually, at the beginning of each hospital's cost reporting period, by an applicable update factor.

Section 1886(b)(3)(B) of the Act, which is implemented in regulations at § 413.40(c)(3)(vii), provides that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the update factor for a hospital or unit depends on the hospital's or hospital unit's costs in relation to the ceiling for the most recent cost reporting period for which information is available. For hospitals with costs exceeding the ceiling by 10 percent or more, the update factor is the market basket increase. For hospitals with costs exceeding the ceiling by less than 10 percent, the update factor is the market basket minus .25 percent for each percentage point by which costs are less than 10 percent over the ceiling. For hospitals with costs equal to or less than the ceiling but greater than 66.7 percent of the ceiling, the update factor is the greater of 0 percent or the market basket minus 2.5 percent. For hospitals with costs that do not exceed 66.7 percent of the ceiling, the update factor is 0.

The most recent forecast of the market basket increase for FY 2002 for hospitals and hospital units excluded from the prospective payment system is 3.0 percent. Therefore, the update to a hospital's target amount for its cost reporting period beginning in FY 2002 would be between 0.5 and 3.0 percent, or 0 percent, depending on the hospital's or unit's costs in relation to its rate-of-increase limit.

In addition, § 413.40(c)(4)(iii) requires that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the target amount for each psychiatric hospital or hospital unit, rehabilitation hospital or hospital unit, and long-term care hospital cannot exceed a cap on the target amounts for hospitals in the same class.

Section 1886(b)(3)(H) of the Act, as amended by section 121 of Public Law 106–113, provides for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. On August

1, 2000, we published an interim final rule with comment period that implemented this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000 (65 FR 47026) and a final rule that implemented the provision for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2001 (65 FR 47054). This proposed rule addresses the wage adjustment to the caps for cost reporting periods beginning on or after October 1, 2001.

As discussed in section VI. of the preamble of this proposed rule, the cap on the target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap (the labor-related portion of costs equals 0.71553 and the nonlabor-related portion of costs equals 0.28447). A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the wage index under the hospital inpatient prospective payment system (see § 412.63), without taking into account reclassifications under sections 1886(d)(8)(B) and (d)(10) of the Act.

As discussed in section VI. of the preamble of this proposed rule, we are proposing to make an adjustment to the caps on target amounts for new and existing excluded hospitals and units. In calculating the wage-adjusted caps on target amounts for new and existing excluded and units for FY 2001, we inadvertently made an error. In wage neutralizing FY 1996 target amounts, we used the FY 2000 hospital inpatient prospective payment system wage index published in Tables 4A and 4B of the July 30, 1999 final rule (64 FR 41585 through 41593), which is based on wage data after taking into account geographic reclassifications under section 1886(d)(8) of the Act. We are proposing to use pre-reclassified wage data in our recalculation of the caps for FY 2002. We propose to recalculate the limits for new excluded hospitals and units, as well as calculate the cap for existing excluded hospitals and units using the same wage index used under the prospective payment system for skilled nursing facilities (SNF) as shown in Table 7 of the July 30, 1999 SNF final rule (64 FR 41690). We do not anticipate a significant impact on overall payments to these hospitals and units.

Section 307(a) of Public Law 106–554 amended section 1886(b)(3) of the Act to provide for a 2-percent increase to the wage-adjusted 75th percentile cap on the target amount for long-term care hospitals, effective for cost reporting periods beginning during FY 2001. This provision is applicable to long-term care hospitals that were subject to the cap for existing excluded hospitals and units, as specified in § 413.40(c).

In addition to the increase to the cap on target amounts for long-term care hospitals, section 307(a) of Public Law 106–554 amended section 1886(b)(3)(A) of the Act to make the section applicable to all long-term care hospitals, effective for cost reporting periods beginning during FY 2001. This provision requires a revision to the determination of each long-term care hospital's FY 2001 target amount as specified in § 413.40(c)(4). For cost reporting periods beginning during FY 2001, the hospital-specific target amount otherwise determined for a long-term care hospital as specified under § 413.40(c)(4)(ii) is multiplied by 1.25 (that is, increased by 25 percent). However, the revised FY 2001 target amount for a long-term care hospital cannot exceed its wage-adjusted national cap as required by section 1886(b)(3) of the Act, as amended by section 307(a) of Public Law 106–554.

For cost reporting periods beginning in FY 2002, the proposed caps are as follows:

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	$8,404	$3,341
Rehabilitation	15,689	6,237
Long-Term Care	31,399	12,483

Regulations at § 413.40(d) specify the formulas for determining bonus and relief payments for excluded hospitals and specify established criteria for an additional bonus payment for continuous improvement. Regulations at § 413.40(f)(2)(ii) specify the payment methodology for new hospitals and hospital units (psychiatric, rehabilitation, and long-term care) effective October 1, 1997.

V. Tables

This section contains the tables referred to throughout the preamble to this proposed rule and in this Addendum. For purposes of this proposed rule, and to avoid confusion, we have retained the designations of Tables 1 through 5 that were first used in the September 1, 1983 initial prospective payment final rule (48 FR 39844). Tables 1A, 1C, 1D, 2, 3A, 3B, 4A, 4B, 4C, 4F, 4G, 4H, 5, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 6H, 7A, 7B, 8A, and 8B are presented below. The tables presented below are as follows:

Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor
Table 1C—Adjusted Operating Standardized Amounts for Puerto Rico, Labor/Nonlabor
Table 1D—Capital Standard Federal Payment Rate
Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2000 (1996 Wage Data), 2001 (1997 Wage Data) and 2002 (1998 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages
Table 3A—3-Year Average Hourly Wage for Urban Areas
Table 3B—3-Year Average Hourly Wage for Rural Areas
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Table 5—List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric and Arithmetic Mean Length of Stay
Table 6A—New Diagnosis Codes
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Table 6E—Revised Diagnosis Code Titles
Table 6F—Revised Procedure Code Titles
Table 6G—Additions to the CC Exclusions List
Table 6H—Deletions to the CC Exclusions List
Table 7A—Medicare Prospective Payment System Selected –Percentile Lengths of Stay FY 2000 MedPAR Update 12/00 –GROUPER V18.0
Table 7B—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 2000 MedPAR Update 12/00 GROUPER V20.0
Table 8A—Statewide Average Operating Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted) March 2001
Table 8B—Statewide Average Capital Cost-to-Charge Ratios (Case Weighted) March 2001

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
$2,940.89	$1,195.38	$2,894.33	$1,176.46

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	$2,915.45	$1,185.04	$2,915.45	$1,185.04
Puerto Rico	1,414.18	569.25	1,391.79	560.23

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

	Rate
National	$389.09
Puerto Rico	188.67

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
010001	15.8484	16.4088	17.1352	16.4665
010004	15.0194	17.9732	19.0010	17.1863
010005	16.2615	17.5985	18.6554	17.4986
010006	17.3081	16.7480	17.3537	17.1306
010007	14.8048	15.4798	15.6788	15.3288
010008	17.6549	14.7443	17.4728	16.6080
010009	17.5328	18.7731	18.4390	18.2439
010010	15.9090	16.4468	16.4664	16.2848
010011	20.6261	20.7972	21.9311	21.1001
010012	19.2992	17.7171	15.8686	17.5430
010015	18.3461	15.4510	18.7062	17.3913
010016	16.1311	17.2473	18.6772	17.4112
010018	18.9617	17.6449	18.9388	18.5180
010019	15.4910	16.3493	17.0672	16.3245
010021	14.6297	16.2919	15.1241	15.3000
010022	20.5050	18.5879	17.6435	18.8422
010023	16.2581	16.1025	16.3209	16.2283
010024	16.0263	16.2900	16.2974	16.2091
010025	14.5311	15.1356	15.1548	14.9441
010027	14.9278	11.7900	16.8595	14.1053
010029	16.4103	17.6461	18.3605	17.4403
010031	18.0194	18.7835	18.5180	18.4445
010032	12.6540	12.5995	15.3590	13.6017
010033	19.6797	20.3923	21.1818	20.4188
010034	14.7342	15.0959	15.3639	15.0606
010035	17.4788	20.1853	16.0377	17.7343
010036	17.2880	17.8140	17.0366	17.3872
010038	18.3309	18.2671	19.6098	18.7632
010039	18.8080	20.1045	20.3406	19.7778
010040	19.1030	18.9376	19.9152	19.2851
010043	16.2022	30.7489	18.6640	19.9982
010044	17.0229	22.0091	24.0265	20.8906
010045	15.0065	15.2200	17.0417	15.7248
010046	17.1822	17.3970	18.9737	17.8750
010047	16.3803	13.3521	15.4332	15.2044
010049	14.4823	14.7590	15.5246	14.9487
010050	15.4159	18.5163	17.3895	17.0820

* Wage data not available for the provider that year.
** For Federal Fiscal Year 2002 only, the average hourly wage is based upon data on file as of February 15, 2001. It does not reflect changes processed after that date.
*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
010051	9.9390	11.9275	11.8108	11.1940
010052	13.8649	16.5486	18.0653	16.1248
010053	13.1778	14.6267	15.5649	14.5406
010054	17.1246	18.5103	19.5148	18.4901
010055	18.1930	18.9526	18.8590	18.6711
010058	12.7809	16.1702	16.9715	15.1274
010059	18.1886	19.1286	18.8020	18.7124
010061	15.9215	14.9547	14.5003	15.1112
010062	13.5690	14.7732	12.3259	13.5151
010064	20.8966	20.4139	19.5256	20.2712
010065	15.6357	16.4049	16.8752	16.3279
010066	12.0681	15.4317	13.1559	13.4757
010068	18.7367	12.0525	12.9616	14.2644
010069	13.5684	13.8636	14.7211	14.0429
010072	14.3481	14.9526	16.2339	15.1957
010073	12.8328	13.8601	14.1273	13.6015
010078	17.7110	17.9202	18.1028	17.9134
010079	16.8701	16.4421	14.5611	15.8427
010080	13.8473	*	*	13.8473
010081	16.9823	18.9474	17.2996	17.7081
010083	16.2146	16.8933	18.0312	17.0916
010084	18.7794	18.4965	18.7769	18.6812
010085	18.8696	18.4744	19.6888	19.0044
010086	14.9255	16.6694	16.5711	16.0968
010087	18.3889	19.0033	17.3321	18.3237
010089	16.6090	16.8042	17.7800	17.0521
010090	18.1121	18.3866	18.9445	18.4882
010091	16.3620	13.9405	17.0799	15.6820
010092	16.4980	16.9900	17.8144	17.1322
010094	18.5603	*	*	18.5603
010095	11.8993	12.4525	12.2597	12.2090
010097	12.8955	13.0413	12.7286	12.8889
010098	14.2787	15.9165	14.0300	14.6833
010099	15.9309	15.9874	15.5619	15.8073
010100	15.4826	17.2011	17.7237	16.8503
010101	15.4173	15.3859	14.4460	15.0721
010102	12.7251	13.7933	13.8136	13.4259
010103	19.3115	17.9358	16.6514	17.9628
010104	18.0997	17.7126	15.9964	17.2534
010108	20.7914	17.9017	19.4617	19.3047
010109	14.0870	15.3107	14.6834	14.6934
010110	15.9066	15.6317	15.8283	15.7917
010112	15.1056	15.1401	16.8271	15.6716
010113	17.2440	16.9683	13.9413	15.9844
010114	17.2612	15.2454	17.0136	16.4485
010115	13.7524	14.6268	14.9632	14.4787
010118	16.6889	18.8477	17.0834	17.5145
010119	18.1707	18.8024	20.7741	19.7059
010120	17.0332	17.2336	18.2567	17.5146
010121	15.1806	14.6444	14.5262	14.8160
010123	18.1604	16.7344	19.2140	17.9949
010124	16.2666	16.2846	16.7465	16.4273
010125	14.4153	15.5304	16.0136	15.3557
010126	17.6405	19.5710	19.1065	18.7347
010127	19.6095	19.5190	18.2786	19.1726
010128	12.5747	14.5056	14.4322	13.6385
010129	14.4267	14.7286	16.1733	15.1385
010130	16.3465	16.6809	18.1314	16.9797
010131	17.9076	17.8260	20.1883	18.6602
010134	10.7817	18.8835	19.9856	15.8677
010137	15.9348	12.1217	20.4561	15.8609
010138	12.1295	12.8675	14.5254	13.1763
010139	19.9487	19.0001	20.6815	19.8355

* Wage data not available for the provider that year.
** For Federal Fiscal Year 2002 only, the average hourly wage is based upon data on file as of February 15, 2001. It does not reflect changes processed after that date.
*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
010143	15.7144	16.7911	17.6212	16.7651
010144	17.1211	17.1320	17.7580	17.3377
010145	20.7460	20.8434	20.5895	20.7209
010146	18.8561	18.5198	19.1415	18.8309
010148	14.6443	12.2214	15.8349	13.9784
010149	17.0836	18.6333	18.0156	17.9216
010150	16.9749	17.8951	18.8977	17.9203
010152	17.3835	17.8306	18.2173	17.8172
010155	16.7028	9.0300	15.0689	12.5183
010158	*	17.3227	18.3957	17.8637
020001	27.9690	28.1747	27.4110	27.8426
020002	26.9145	24.5815	25.1987	25.5092
020004	26.3979	30.5667	25.4679	27.5927
020005	29.0068	30.2920	29.2378	29.5337
020006	26.7706	31.2404	28.1417	28.8630
020007	24.9555	27.8319	32.3852	28.0097
020008	30.4712	29.4146	30.8691	30.2487
020009	23.1801	20.1930	18.4660	20.3801
020010	18.6417	23.6727	22.7559	21.4818
020011	29.4697	30.4727	28.0658	29.3006
020012	23.9259	24.8543	25.5320	24.7635
020013	26.8172	23.8847	28.1557	26.0576
020014	24.0932	27.3823	24.9201	25.4246
020017	24.9714	26.8319	27.6501	26.5037
020024	22.7263	24.0872	25.3205	24.0621
020025	27.1529	21.7557	20.2583	22.6334
030001	19.8695	20.3673	21.7869	20.6506
030002	21.6263	21.5977	21.8375	21.6886
030003	23.6722	23.4833	22.6804	23.3063
030004	17.7333	14.0711	15.5478	15.4308
030006	17.6409	18.2668	19.7289	18.5307
030007	18.5602	19.6708	21.5169	19.9379
030008	*	22.2758	22.2190	22.2524
030009	17.9343	18.1794	18.7557	18.2786
030010	18.7997	19.0907	19.5123	19.1422
030011	20.0784	19.2973	19.4310	19.5785
030012	19.4245	18.9918	20.6585	19.6997
030013	21.0182	20.7458	19.6369	20.4298
030014	19.4697	19.9315	19.7966	19.7342
030016	20.5606	19.3967	19.4785	19.8559
030017	20.4185	22.8765	21.7938	21.6805
030018	18.9115	20.2032	20.8980	20.0193
030019	19.9211	21.7005	21.2540	20.9846
030022	15.7886	19.2966	17.3485	17.0947
030023	22.4365	23.6697	24.1678	23.4686
030024	21.6692	22.2541	22.6199	22.1974
030025	17.6759	12.7254	11.9894	13.7385
030027	17.5796	15.7554	17.6555	16.9563
030030	21.6249	20.8303	21.6932	21.3795
030033	16.8396	20.0044	20.2820	18.9069
030034	19.0868	16.8241	20.8689	18.8279
030035	19.7153	19.2781	20.0226	19.6580
030036	18.9449	20.7567	21.6371	20.4743
030037	21.4376	22.8266	23.7615	22.6712
030038	22.0777	22.6776	22.9822	22.5885
030040	17.9722	18.5456	19.7636	18.7537
030041	17.4389	15.8921	18.8717	17.2718
030043	20.7721	20.9341	20.5598	20.7468
030044	16.4654	16.8649	17.6575	17.0214
030047	19.6916	22.6401	21.4412	21.2271
030049	19.0896	19.0881	19.3580	19.1639
030054	14.4861	15.3338	15.0657	14.9801
030055	18.2751	16.3613	20.2991	18.2684

* Wage data not available for the provider that year.
** For Federal Fiscal Year 2002 only, the average hourly wage is based upon data on file as of February 15, 2001. It does not reflect changes processed after that date.
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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
030059	21.7100	24.0465	22.6279	22.7570
030060	16.7661	19.2461	18.6313	18.2043
030061	17.3470	18.9063	19.9047	18.7238
030062	17.4825	17.6738	18.0603	17.7568
030064	18.5391	19.5673	19.9437	19.3687
030065	19.9277	20.5130	20.7838	20.4254
030067	15.6207	14.4446	17.2778	15.7364
030068	17.3482	17.3614	17.7208	17.4823
030069	19.0013	19.0961	21.0936	19.7255
030080	19.9865	20.5144	20.6581	20.3684
030083	23.6433	23.3355	23.5229	23.4991
030085	17.8402	21.0954	20.8611	19.9420
030086	18.5030	19.5436	*	19.0352
030087	20.0469	21.4084	21.9465	21.1838
030088	19.5772	19.8682	20.4978	20.0029
030089	19.9018	20.4019	20.9516	20.4404
030092	21.5628	20.6986	21.8308	21.3646
030093	19.4688	19.7262	20.4314	19.9052
030094	19.4773	21.6218	22.8123	21.4086
030095	14.2499	13.7293	13.7664	13.9087
030099	18.0747	16.1541	18.2263	17.4781
030100	*	*	23.7609	23.7609
030101	*	*	19.2547	19.2547
030102	*	*	18.2413	18.2413
040001	15.5735	15.1624	16.9178	15.8741
040002	14.0865	13.0592	15.1107	14.0333
040003	14.0027	14.2089	15.5740	14.5731
040004	17.2926	17.8476	17.9034	17.6718
040005	12.8825	13.2597	11.1318	12.3937
040007	19.5299	21.9583	18.6998	19.9568
040008	12.6974	15.3040	14.7985	14.3087
040010	17.6231	18.6023	19.4913	18.6031
040011	12.2654	14.5319	16.0995	14.1756
040014	15.3853	17.6340	18.1434	17.0051
040015	14.6045	16.5891	15.5207	15.5649
040016	17.5431	19.0295	20.2321	18.9152
040017	14.9533	13.5098	15.4686	14.6576
040018	17.5602	17.6027	18.7463	17.9749
040019	25.7080	22.6769	23.4163	23.8479
040020	14.8059	16.4827	18.9844	16.6335
040021	16.4628	17.6398	19.6835	17.8176
040022	16.0006	17.0397	14.8398	15.8797
040024	15.7282	14.4541	17.6523	15.9585
040025	10.9496	11.5079	13.4705	11.8847
040026	18.2398	19.5563	19.7924	19.1863
040027	14.5406	16.0975	17.4431	16.0716
040028	12.8409	14.6584	13.9946	13.7921
040029	17.7777	17.8787	21.1370	18.9480
040030	14.1541	13.5428	11.2402	12.7784
040032	13.3280	13.7030	13.2872	13.4471
040035	11.2123	12.8300	10.9569	11.6408
040036	17.9080	18.9757	20.0835	18.9954
040037	13.4815	14.6559	14.0941	14.0704
040039	13.8386	14.3576	14.7177	14.3115
040040	17.4283	18.0895	19.1984	18.2668
040041	13.3613	15.9896	16.4624	15.2103
040042	14.6641	15.2142	15.2057	15.0333
040044	11.4422	12.6275	13.3501	12.5381
040045	18.7724	14.9429	16.2469	16.4870
040047	16.3948	16.8654	17.5336	16.9538
040048	15.8203	*	*	15.8203
040050	11.7934	13.3818	14.0036	13.0341
040051	16.2803	15.8627	16.6039	16.2390

* Wage data not available for the provider that year.
** For Federal Fiscal Year 2002 only, the average hourly wage is based upon data on file as of February 15, 2001. It does not reflect changes processed after that date.
*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
040053	15.8193	16.3610	15.0219	15.7502
040054	15.0412	15.3219	14.2577	14.8844
040055	16.1029	17.1269	17.7214	16.9813
040058	15.6706	17.6766	16.4278	16.6344
040060	11.4686	12.8148	17.9805	13.6105
040062	17.2757	18.2048	17.8902	17.8204
040064	12.4007	10.7255	11.5029	11.4801
040066	17.6429	18.3377	17.8338	17.9377
040067	13.4930	14.6014	14.4741	14.1956
040069	16.1147	17.5052	17.0026	16.8681
040070	15.4757	16.9027	16.9700	16.4358
040071	16.3022	16.9610	17.2834	16.8497
040072	15.8425	16.0895	17.4822	16.4893
040074	17.3819	18.3224	18.7542	18.1968
040075	12.7496	13.3623	14.0975	13.3977
040076	18.5512	19.0732	20.5840	19.3801
040077	12.4625	12.9211	13.9114	13.0965
040078	17.8573	18.7600	18.5821	18.4100
040080	15.7397	19.2461	19.3707	18.0636
040081	10.6791	11.3169	11.1332	11.0311
040082	16.5127	16.2152	15.1331	15.9302
040084	17.2469	17.2613	17.7295	17.4070
040085	15.7765	16.8957	16.5216	16.3838
040088	15.6710	17.9636	17.1624	16.9372
040090	17.5503	17.8282	19.0824	18.0989
040091	17.0444	19.8700	20.1378	18.8893
040093	12.9010	12.3537	13.9741	13.0114
040100	14.9688	14.7587	15.6833	15.1704
040105	14.2409	15.3319	14.3896	14.6616
040106	15.4000	15.6545	18.1341	16.4515
040107	19.6184	18.8120	17.8628	18.6841
040109	13.9807	14.6266	16.6278	15.0815
040114	18.3133	18.8743	21.1110	19.3778
040116	19.5695	20.2716	*	19.9151
040118	17.4300	19.3720	18.2123	18.3407
040119	15.3847	15.5338	16.7730	15.9002
040124	17.2547	19.1349	19.2889	18.5723
040126	11.6845	12.5368	11.6517	11.9404
040132	13.1760	17.5179	10.3875	13.4483
040134	*	18.0787	19.0185	18.5701
040135	*	22.6761	23.0084	22.8797
050002	27.6006	37.8295	36.9630	33.5586
050006	19.5272	19.5594	18.2061	19.0382
050007	29.5398	30.7126	30.8676	30.4910
050008	25.8570	26.2458	26.3682	26.1654
050009	26.2506	26.8159	28.0701	27.0878
050013	24.8541	23.2201	28.0569	25.1985
050014	24.5302	22.8478	23.6745	23.6450
050015	25.3838	26.2481	27.7731	26.4938
050016	20.1542	20.5566	21.2045	20.6377
050017	23.6639	23.9625	24.4598	24.0349
050018	14.6622	15.4721	15.2903	15.1444
050021	28.5003	25.8966	*	27.2682
050022	22.9583	24.0318	24.5254	23.8802
050024	20.3427	21.3989	22.4274	21.4070
050025	21.9952	23.3896	23.9879	23.0936
050026	28.6850	27.8736	27.0130	27.8531
050028	16.4531	16.4671	17.6138	16.8496
050029	23.2911	25.1259	24.6839	24.3441
050030	21.0096	20.9812	21.5621	21.1955
050032	22.5868	25.2010	24.3598	24.0616
050033	24.5609	24.9328	31.7747	27.1293
050036	20.4703	21.2420	20.1678	20.6131

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050038	27.8274	28.6528	29.9698	28.8293
050039	22.2524	22.7117	22.5974	22.5195
050040	30.6664	32.1287	30.4110	31.0613
050042	22.2343	24.8067	24.5260	23.8317
050043	33.2286	32.9958	33.8255	33.3456
050045	20.7307	19.8831	21.1474	20.5973
050046	31.3831	25.3185	25.2005	27.4555
050047	29.4412	29.9255	29.9580	29.7840
050051	17.8401	17.8945	18.7809	18.1179
050054	19.3686	20.7212	22.0982	20.7075
050055	29.0872	29.3984	29.2730	29.2593
050056	23.8507	27.4321	23.8058	24.9609
050057	21.7581	21.1554	20.7050	21.1842
050058	25.7261	23.1641	23.3009	23.9601
050060	20.9219	20.7747	20.5450	20.7207
050061	23.7443	23.5454	24.5488	23.9503
050063	23.0724	24.8851	25.7593	24.5061
050065	21.1848	24.0420	24.3835	23.0762
050066	21.4187	16.5725	16.1649	17.6784
050067	21.3029	23.1966	25.8857	23.3989
050068	28.4804	20.6851	19.3615	22.4409
050069	29.2980	25.9420	24.6153	26.4351
050070	32.5964	32.5166	33.0195	32.7172
050071	33.1379	33.1850	33.3740	33.2367
050072	32.9660	33.2858	38.5136	34.8941
050073	34.6111	33.3922	31.4874	33.0669
050075	33.5246	33.9095	32.6142	33.3899
050076	33.8835	27.7797	32.7847	31.3195
050077	23.2986	24.1019	24.2083	23.8775
050078	22.8023	23.0736	24.3150	23.3638
050079	34.4253	33.2432	30.0167	32.3461
050082	21.7004	22.1009	23.7617	22.5498
050084	23.0966	23.5866	25.4517	24.0054
050088	24.0634	20.8406	24.9641	23.1779
050089	20.0194	20.9117	21.9331	20.9434
050090	23.8969	23.4097	23.9183	23.7390
050091	22.2220	25.2792	23.7713	23.6457
050092	15.3841	16.7969	17.1211	16.4241
050093	24.0837	25.2130	25.6647	24.9860
050095	33.3761	33.6718	32.5552	33.2492
050096	21.6752	20.0487	22.7394	21.3870
050097	22.6147	16.7054	22.5991	20.1968
050099	24.2921	24.8091	23.5693	24.1958
050100	30.0552	29.8758	25.0335	28.0584
050101	30.0132	31.0264	31.8957	30.9871
050102	21.2947	22.2937	24.0014	22.4745
050103	25.3384	24.7932	25.4133	25.1832
050104	25.4407	25.5797	26.8367	25.9399
050107	21.7649	21.2690	22.2019	21.7497
050108	25.2116	23.5564	25.1307	24.5504
050109	26.4768	*	*	26.4768
050110	20.1769	20.1870	19.9589	20.1175
050111	21.7397	21.5487	20.7897	21.3840
050112	26.2922	25.3015	26.8182	26.1335
050113	27.7805	28.8420	28.5224	28.4025
050114	25.9073	24.7286	26.6757	25.7599
050115	21.0499	21.3291	23.0182	21.8124
050116	25.5919	25.2130	24.9196	25.2412
050117	20.4379	23.3612	22.2123	21.9903
050118	23.9976	23.7698	23.7129	23.8243
050121	18.8818	19.5252	18.4827	18.9563
050122	*	26.3172	26.9546	26.6358
050124	23.0193	22.7736	24.5069	23.3667

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050125	24.0434	29.6147	32.0230	28.3742
050126	23.8424	23.9247	24.6752	24.1448
050127	19.7654	22.1937	20.9157	20.9577
050128	24.1801	25.7240	26.6132	25.5185
050129	27.1586	26.5030	23.0719	25.3795
050131	29.0570	31.0732	32.5462	30.8106
050132	22.9139	24.0834	24.0173	23.6527
050133	24.4011	24.9746	23.2093	24.1354
050135	27.0341	23.2361	24.7157	24.9796
050136	24.4336	24.7921	24.4162	24.5396
050137	30.0725	32.6507	31.5620	31.4326
050138	37.4088	37.3286	40.3920	38.3945
050139	31.3785	32.9351	30.3774	31.5037
050140	33.6644	34.1499	31.6524	33.0748
050144	25.7483	27.8751	27.4069	26.9409
050145	33.0620	32.3857	34.5185	33.3152
050148	21.0584	21.9211	20.0971	20.9748
050149	23.3754	24.6078	26.8674	24.8666
050150	23.4777	24.9073	24.6596	24.3771
050152	27.7504	34.0766	33.3305	31.5833
050153	29.5915	30.5714	32.3389	30.8441
050155	22.9420	21.0257	25.3354	22.9852
050158	27.9789	27.5623	28.6071	28.0313
050159	25.2105	23.2912	22.5313	23.6099
050167	21.6778	21.9128	21.8796	21.8226
050168	25.2504	23.3511	25.1937	24.5830
050169	24.6361	22.3888	24.8407	23.8796
050170	22.1989	23.9574	24.3654	23.4164
050172	17.6976	20.1841	19.6120	19.1630
050173	23.3255	24.5545	24.8694	24.1923
050174	31.2136	30.2140	30.1320	30.4943
050175	27.7875	27.2806	24.7548	26.2477
050177	20.2485	21.7943	21.1396	21.0728
050179	19.2861	21.7175	23.8868	21.4573
050180	32.1883	31.8947	33.3257	32.5107
050183	19.9765	20.3638	*	20.1665
050186	21.9062	22.4155	23.6288	22.6119
050188	27.4364	28.0918	28.2364	27.9460
050189	23.2415	22.8687	27.4071	24.6245
050191	26.7297	20.8321	25.2399	24.1511
050192	17.8095	18.6701	14.0828	16.5416
050193	23.7260	22.6316	24.9444	23.7567
050194	28.2701	29.7371	29.3310	29.0932
050195	34.7789	35.5621	36.9068	35.7823
050196	16.6866	18.5180	18.2411	17.8430
050197	31.4513	35.7449	32.0779	32.9661
050204	24.3944	23.6105	22.7099	23.5849
050205	21.1545	23.6831	24.1691	23.0778
050207	20.8576	21.6214	22.9941	21.8243
050211	31.2175	31.6084	31.7280	31.5153
050213	20.7338	21.4806	21.4438	21.1694
050214	20.8704	21.7335	24.0276	22.1888
050215	28.4058	29.8563	32.4402	30.1364
050217	19.8913	19.6010	20.2042	19.9076
050219	25.4730	21.7444	21.2458	22.6404
050222	27.0713	27.4809	26.9958	27.1794
050224	23.7942	23.5316	23.5101	23.6043
050225	20.7978	23.3480	21.6206	21.8948
050226	26.9297	27.7315	24.4443	26.2380
050228	30.3772	34.0711	34.2596	32.7722
050230	25.3640	27.7357	26.6291	26.5638
050231	25.5798	26.1508	26.7319	26.1758
050232	23.3849	24.3072	24.5245	24.0793

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050233	31.3954	*	*	31.3954
050234	*	*	28.5188	25.7035
050235	25.8595	25.2527	27.0922	26.0726
050236	26.2723	26.9803	25.9458	26.4027
050238	24.0043	24.2922	24.5823	24.2994
050239	20.4071	22.6625	21.9889	21.6674
050240	25.2540	26.3657	26.7736	26.0561
050241	27.2198	26.3740	29.8345	27.7426
050242	30.1432	31.1576	31.9079	31.0590
050243	22.9123	28.9635	26.4627	26.1049
050245	24.3969	23.8124	23.2716	23.7873
050248	27.4214	26.2015	27.6457	27.0910
050251	18.4990	21.6574	23.6360	21.1907
050253	20.0658	16.0701	16.7540	17.4281
050254	19.6899	19.3126	20.1176	19.7146
050256	23.5302	23.6887	23.4835	23.5723
050257	19.5923	15.2306	15.0481	16.3402
050260	23.5201	23.2421	27.4234	24.5032
050261	20.4496	20.0552	20.1040	20.2029
050262	29.0054	28.8785	29.5550	29.1532
050264	29.4542	32.1312	36.0219	32.4654
050267	24.7464	26.2264	26.0401	25.6690
050270	23.7260	24.0439	25.3757	24.3521
050272	21.4374	22.4247	23.1111	22.3118
050274	21.1943	20.0422	*	20.6204
050276	28.5051	29.8624	33.3302	30.5715
050277	22.3125	20.0520	26.0822	22.5131
050278	23.8434	24.7787	23.9289	24.1853
050279	21.0570	20.8444	21.8949	21.2309
050280	24.4267	25.2149	25.4011	25.0356
050281	18.5907	19.6888	24.2251	20.7934
050282	24.4593	28.8261	25.4428	26.2214
050283	27.8763	29.7734	31.7669	30.1598
050286	17.8045	16.5708	18.5915	17.4822
050289	26.7185	34.1393	30.4750	30.2632
050290	26.3745	28.6231	29.6796	28.2631
050291	26.4908	30.2748	28.3483	28.3026
050292	22.4878	21.6243	20.8410	21.6183
050293	19.1761	22.2963	24.1875	21.4642
050295	20.7393	21.2892	21.5335	21.1814
050296	25.3166	27.2948	28.3906	27.0098
050298	20.5181	24.4477	23.2006	22.6781
050299	25.7697	26.4543	25.5035	25.9187
050300	22.7423	23.5116	25.9228	24.1102
050301	26.0355	22.5201	21.1403	23.0323
050302	29.2007	*	*	29.2007
050305	32.7082	34.5185	36.7908	34.7340
050307	27.9830	17.2147	*	21.7503
050308	28.4019	29.3803	28.9284	28.9113
050309	24.4034	23.7884	25.3515	24.5133
050310	20.6181	*	*	20.6181
050312	23.7936	26.7617	26.0015	25.5439
050313	23.1009	21.7577	25.6827	23.5594
050315	21.9227	24.7086	22.7359	23.0264
050317	19.4479	21.6937	*	20.5789
050320	30.6054	30.4101	32.4809	31.1252
050324	26.2735	26.6049	25.3694	26.0738
050325	23.2355	24.4862	23.6327	23.7872
050327	22.8511	23.9484	25.6450	24.1469
050328	23.1889	*	*	23.1889
050329	21.4125	19.7455	15.1669	18.2146
050331	25.5252	22.2536	25.0230	24.1261
050333	20.1468	19.4589	19.1449	19.5671

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050334	32.0169	34.2330	34.2557	33.5307
050335	20.2013	23.0258	22.9926	22.0827
050336	20.0980	20.7979	21.3402	20.7523
050342	19.3524	20.1841	20.8255	20.1210
050343	17.3394	17.2085	*	17.2799
050348	20.7505	23.8779	25.1085	23.3219
050349	15.0515	14.9754	15.0667	15.0310
050350	25.0676	24.8340	26.4161	25.4163
050351	24.6936	25.4791	24.8121	24.9948
050352	23.5927	26.1380	26.0974	25.3078
050353	23.2468	23.0564	23.2699	23.1944
050355	17.1597	17.2778	21.0969	18.0157
050357	23.6411	22.6545	24.5345	23.6386
050359	20.4005	17.7907	21.7548	19.8316
050360	31.7608	31.3526	31.7583	31.6236
050366	21.3442	23.7528	19.6823	21.4770
050367	29.4763	28.2805	30.7328	29.5063
050369	24.2604	27.0548	26.2234	25.8174
050373	26.6548	26.9776	28.0655	27.2088
050376	25.3036	26.5840	28.5679	26.7332
050377	25.6401	17.1764	17.0012	20.1035
050378	22.2363	25.9810	26.9101	24.8709
050379	15.4994	15.2022	17.8958	16.1098
050380	30.5790	31.4343	31.9578	31.3600
050382	26.1465	26.1398	25.9244	26.0725
050385	25.9188	24.6083	20.1687	23.1378
050388	13.7863	19.1512	22.0122	17.5709
050390	22.5668	25.0426	24.2700	23.9349
050391	22.4881	18.9266	20.0615	20.3952
050392	21.9324	21.6729	22.9430	22.1487
050393	23.1387	25.6964	24.1981	24.3082
050394	22.2424	23.0604	23.1526	22.8333
050396	23.6322	24.0636	25.3729	24.3512
050397	20.7698	20.2601	20.6397	20.5453
050401	17.7807	20.7473	18.4593	18.9557
050404	19.2754	17.3396	15.9839	17.4356
050406	16.8931	17.3016	17.8596	17.3407
050407	30.1222	29.9642	30.8346	30.2996
050410	16.4735	17.6769	19.8508	17.8663
050411	32.2364	34.8899	32.2157	33.0639
050414	24.4243	24.2060	23.9069	24.1441
050417	21.8884	21.5739	23.3005	22.2456
050419	23.1162	23.7584	23.4936	23.4646
050420	22.6819	22.3166	23.1651	22.7188
050423	23.3296	17.3771	21.3552	20.6272
050424	23.7788	22.8350	24.0727	23.5641
050425	33.6911	32.8364	33.8624	33.4842
050426	23.7082	25.2453	29.2475	25.9886
050427	20.0698	20.1674	16.4330	18.6499
050430	21.3428	23.8788	21.2275	22.2136
050432	21.4984	24.4133	24.5630	23.4427
050433	16.8035	17.4643	18.9021	17.7004
050434	15.6348	19.7591	*	17.6624
050435	32.9865	25.6676	23.3426	26.8858
050436	16.3594	14.8121	*	15.5729
050438	24.0828	25.0138	22.5006	23.8790
050440	21.1100	23.5167	22.6946	22.4056
050441	28.7067	28.9804	31.8774	29.8169
050443	16.4308	19.9020	17.2875	17.7906
050444	24.6741	21.4533	22.4530	22.8550
050446	20.5383	20.4908	22.3422	21.1378
050447	18.4183	17.9751	18.9851	18.4558
050448	20.0757	19.7046	21.7718	20.5035

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050449	22.1784	23.8001	23.4614	23.1469
050454	28.6857	28.7432	30.9487	29.5840
050455	19.9209	20.1643	20.2611	20.1204
050456	17.6229	20.1254	18.1585	18.5890
050457	31.2489	34.4949	32.1910	32.6376
050459	37.0914	*	*	37.0914
050464	22.3142	25.3292	25.7710	24.4665
050468	23.1701	23.3050	22.2926	22.8998
050469	23.4404	23.8759	24.5205	23.8915
050470	17.0353	16.0292	15.7832	16.2133
050471	24.2887	25.6172	26.2221	25.3560
050476	23.1428	22.4754	24.0253	23.2552
050477	27.7855	27.9595	27.5819	27.7866
050478	23.0530	24.5401	26.3306	24.6133
050481	26.8293	28.9722	27.7973	27.8692
050482	16.9268	18.1217	16.0114	17.0134
050483	21.6038	22.7182	*	22.1632
050485	23.1933	24.1983	24.6906	24.0174
050486	24.4967	*	*	24.4967
050488	32.8620	34.6939	31.7481	33.0979
050491	25.1011	26.8703	27.4600	26.4606
050492	21.4156	19.5457	20.5030	20.4277
050494	25.4078	29.2621	29.1296	27.9125
050496	33.0168	32.5168	34.9704	33.4862
050497	*	13.8110	15.4115	14.5264
050498	24.8445	24.9677	26.1716	25.3085
050502	22.6253	22.3788	24.3517	23.0821
050503	23.5911	24.4069	23.3745	23.7879
050506	21.2165	25.0845	25.0333	23.8164
050510	33.4617	33.3774	32.6940	33.1728
050512	34.3138	35.3581	33.4465	34.3098
050515	35.0412	35.3419	32.6021	34.2147
050516	25.1850	24.7992	26.1969	25.4171
050517	20.3733	20.9550	22.0985	21.1081
050522	31.7326	35.3784	35.2780	33.9529
050523	28.4235	27.0544	31.2522	28.8864
050526	26.9206	23.8099	26.4014	25.6096
050528	18.6898	19.0611	18.9155	18.8867
050531	20.7332	22.7308	21.3948	21.6689
050534	23.3026	24.0700	24.0001	23.7954
050535	24.2257	25.4215	26.8511	25.4120
050537	22.2073	22.2256	23.8790	22.8084
050539	23.2501	20.7129	21.2318	21.6610
050541	34.6195	34.4573	35.5912	34.9089
050542	17.8537	16.0892	17.7737	17.2018
050543	23.0437	22.3994	21.6795	22.3610
050545	27.5713	26.3304	31.7280	27.9472
050546	27.7557	26.1949	38.8087	28.7303
050547	27.0845	26.8305	37.7681	28.7499
050548	26.5922	28.8083	29.8516	28.2370
050549	27.9098	27.2765	28.5457	27.9239
050550	25.7546	24.8048	25.6588	25.4034
050551	24.0488	25.4652	24.8084	24.7966
050552	22.8731	21.5216	20.3239	21.6775
050557	22.1385	21.1243	22.2562	21.8314
050559	24.6689	23.5759	24.7866	24.3485
050561	33.9268	34.5791	32.3907	33.5772
050564	24.5099	23.5922	24.2091	24.0891
050565	22.8785	23.7829	20.8349	22.3644
050566	18.3297	17.4423	22.3448	19.2949
050567	24.2349	24.6454	25.0787	24.6746
050568	20.5205	19.5816	20.5376	20.2025
050569	24.9453	26.5479	27.3429	26.2484

* Wage data not available for the provider that year.
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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050570	24.4961	25.2294	26.1015	25.2629
050571	24.3741	26.2039	23.6702	24.7124
050573	25.1398	24.9644	25.6589	25.2612
050575	*	19.5611	20.7090	20.0979
050577	20.5177	25.1549	23.5487	22.9797
050578	28.9073	28.5379	28.3177	28.5843
050579	30.0694	30.4952	29.9348	30.1803
050580	23.9183	25.9004	24.6962	24.8350
050581	23.5660	23.8584	24.1233	23.8604
050583	23.3609	24.3987	25.8800	24.5448
050584	23.1610	21.2366	19.5805	21.2667
050585	26.4985	25.9426	24.2824	25.5872
050586	23.8402	23.4079	23.1850	23.4570
050588	30.3873	25.3094	24.5472	26.4705
050589	24.3453	24.8698	23.8109	24.3084
050590	*	22.4480	23.9599	23.1967
050591	22.3224	23.9412	24.8356	23.6641
050592	26.0528	21.1745	22.1174	23.0414
050594	22.7826	27.1584	27.7002	25.6455
050597	23.1789	22.8523	23.3280	23.1176
050598	28.1062	24.3597	23.9202	25.2869
050599	26.3191	29.1221	26.0892	27.1846
050601	32.8704	31.8670	29.7417	31.4201
050603	22.7500	23.3390	21.7031	22.5608
050604	33.3239	34.0461	34.3923	33.9347
050607	24.1052	*	*	24.1052
050608	16.1529	18.0947	17.6170	17.2527
050609	31.9340	34.9935	32.3640	33.0668
050613	23.4779	23.3835	30.2413	25.4419
050615	23.7015	23.8815	27.5682	24.9089
050616	22.7960	22.7437	24.9843	23.5101
050618	21.7032	21.6509	21.4895	21.6219
050623	30.3208	29.1806	33.3458	30.6877
050624	22.3419	22.7148	26.4659	23.7251
050625	24.3503	26.4849	27.5816	26.1377
050630	24.0961	23.9159	23.9834	23.9961
050633	21.9790	23.1918	25.4283	23.5401
050635	37.8481	*	*	37.8481
050636	20.8349	21.2618	23.5257	21.8335
050638	23.6341	18.2859	18.2159	19.5807
050641	21.3605	21.8315	17.1258	19.7042
050644	23.1229	22.3456	22.1489	22.5048
050661	20.4769	19.6780	*	20.1699
050662	28.2910	26.9606	35.0989	28.9225
050663	23.7097	30.6591	24.9110	25.8492
050667	24.1064	24.9979	27.5045	25.1663
050668	39.9001	42.0974	61.7751	44.9671
050670	21.8750	20.0152	24.6101	21.9523
050674	36.2361	34.7380	31.4935	33.9505
050675	15.8423	15.6794	*	15.7602
050676	17.5302	18.6672	52.8683	22.3243
050677	33.7056	35.6503	32.6045	33.9333
050678	22.6591	26.8741	22.7756	23.9129
050680	27.3188	28.0584	31.4839	28.9200
050682	17.9715	26.2882	17.3566	19.6443
050684	21.8067	22.3398	23.3697	22.4849
050685	32.1330	31.1725	35.1307	32.7762
050686	33.2515	35.2631	32.3401	33.5425
050688	29.9990	30.6635	31.0648	30.5922
050689	34.1851	30.7295	30.9399	31.8127
050690	33.8277	32.8204	33.7648	33.4827
050693	33.2977	26.8265	25.5662	28.3155
050694	22.5719	23.2293	23.5572	23.1120

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
050695	23.5215	21.1377	24.3451	23.0440
050696	26.4103	28.0015	28.3291	27.6235
050697	21.4716	21.1566	18.2338	20.1433
050699	28.4754	25.7843	17.5296	23.1610
050700	28.4522	*	*	28.4522
050701	27.6190	22.6959	24.3055	24.7548
050702	12.2518	*	*	12.2518
050704	20.7568	22.8716	22.7618	22.3025
050707	27.5065	26.2732	27.8958	27.2979
050708	21.9149	22.7821	24.8647	23.2324
050709	19.4255	21.9598	19.4977	20.2535
050710	26.8095	26.9060	26.7221	26.8057
050713	15.3027	17.7259	16.8538	16.6077
050714	*	28.9314	30.1925	29.4900
050715	19.1151	*	*	19.1151
050717	*	25.9534	29.6608	27.7154
050718	*	17.6062	18.0940	17.8064
050719	*	25.5508	23.0833	23.8495
050720	*	*	25.8677	25.8677
060001	20.5908	21.3659	21.1819	21.0411
060003	19.3243	19.8023	20.4682	19.8685
060004	21.7899	22.8750	21.4496	22.0469
060006	17.8613	19.3651	20.0213	19.0568
060007	16.3833	17.4682	18.2977	17.3945
060008	17.0944	18.0333	18.4590	17.8646
060009	21.1795	21.4312	22.6084	21.7644
060010	22.7241	24.0872	23.6827	23.5135
060011	21.9727	23.4366	22.6254	22.6752
060012	19.7746	20.1442	19.4932	19.7974
060013	19.1369	22.7346	18.4230	20.1121
060014	20.5353	24.2459	23.8228	22.8253
060015	23.5675	20.9773	23.0206	22.5102
060016	15.9627	16.4707	20.2408	17.3661
060018	21.8607	20.3183	21.5083	21.2146
060020	17.7250	18.3099	18.8985	18.3187
060022	19.6488	21.0558	21.0830	20.6200
060023	19.6534	19.2373	21.2785	20.0409
060024	22.8347	21.9955	22.5663	22.4704
060027	21.6731	20.9846	21.7448	21.4691
060028	22.2461	23.2065	23.1792	22.8860
060029	21.4111	20.8585	18.2938	20.0752
060030	20.0345	20.5002	20.3452	20.2923
060031	19.3998	21.1649	22.0161	20.8402
060032	22.3702	23.4162	21.7060	22.5248
060033	13.8165	15.9085	16.0760	15.2591
060034	21.4110	22.4791	22.1375	22.0321
060036	19.2386	15.0698	18.5988	17.4095
060037	14.0458	15.5611	15.4513	15.0213
060038	14.3084	14.0791	14.3249	14.2429
060041	14.8299	14.8934	19.1263	15.9980
060042	20.0815	19.1892	20.8597	19.9134
060043	13.0544	13.6717	13.4443	13.3963
060044	22.5286	19.7039	20.8673	21.1240
060046	20.4359	19.4567	22.2699	20.7384
060047	15.1181	15.8770	17.1534	15.9786
060049	20.6427	21.7797	25.5038	22.5344
060050	16.8012	18.2238	19.0832	18.0606
060052	12.5517	13.4210	14.6309	13.5896
060053	14.9399	15.9806	18.0232	16.2596
060054	19.3943	22.8985	20.4160	20.8278
060056	17.0509	18.2831	18.1263	17.9597
060057	23.3804	26.4046	25.4185	25.1123
060058	16.9064	15.4856	13.8539	15.6088

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
060060	14.8894	15.6469	15.6018	15.4330
060062	14.9354	17.2991	16.8640	16.3901
060063	15.0896	*	*	15.0896
060064	20.9349	21.2207	22.6830	21.6302
060065	24.3032	21.6305	23.7162	23.1229
060066	14.0672	16.3485	17.2537	15.7129
060068	19.6355	*	*	19.6355
060070	16.5821	17.3184	18.8960	17.6173
060071	16.9545	17.5987	17.4068	17.3254
060073	15.8385	15.7860	17.0846	16.2338
060075	22.8498	24.1550	23.8724	23.6295
060076	19.2861	24.8732	20.3265	21.3796
060085	13.4761	13.6277	14.3409	13.7955
060087	21.0277	*	*	21.0277
060088	16.6753	25.2786	13.7174	17.2655
060090	14.5096	22.2974	16.3760	17.6196
060096	23.1232	21.9623	20.8937	21.9261
060100	21.9983	23.5986	22.9395	23.0367
060103	22.3414	24.8151	23.5320	23.5039
060104	22.3008	22.2295	21.0656	21.8025
060107	13.6449	14.2698	21.9221	15.1674
070001	26.5150	26.0878	26.1878	26.2690
070002	25.4570	26.2801	26.2089	25.9775
070003	26.0894	25.6949	27.3062	26.3527
070004	23.2664	22.4871	24.2567	23.3158
070005	25.5739	26.6483	26.7916	26.3250
070006	28.7139	27.5674	28.4368	28.2423
070007	27.1867	26.9505	26.0179	26.7076
070008	26.0269	23.0227	24.2971	24.3585
070009	23.4686	24.6201	24.1871	24.0886
070010	25.9375	26.2354	28.0116	26.6816
070011	23.9603	23.3638	23.0883	23.4486
070012	25.1022	23.0321	28.8067	25.3536
070015	25.3317	23.8240	25.4250	24.8350
070016	26.3005	24.9148	24.4633	25.2035
070017	24.8038	26.2923	26.0424	25.7039
070018	28.8776	28.0689	30.6864	29.1923
070019	24.7025	25.7283	24.9249	25.1145
070020	23.7227	23.9987	25.0719	24.2498
070021	26.5173	25.2978	27.1879	26.2849
070022	25.0845	26.5691	26.5225	26.0295
070024	25.1491	25.2983	24.8948	25.1081
070025	25.4055	25.1315	25.0631	25.2037
070026	18.7892	*	*	18.7892
070027	23.6381	23.6412	26.8450	24.6648
070028	24.6913	24.6788	25.6145	24.9846
070029	22.7507	22.0080	23.9682	22.8885
070030	24.9676	28.9117	22.1578	25.5338
070031	21.6565	23.4419	24.1198	23.0342
070033	28.8099	30.4214	31.4671	30.2045
070034	29.1220	28.9200	29.1514	29.0628
070035	23.0574	23.0869	23.7003	23.2881
070036	28.9463	28.8400	29.9470	29.2263
070039	21.7791	22.9032	22.3356	22.3067
080001	25.2849	25.4836	24.2845	25.0307
080002	15.5984	19.6011	20.1965	18.4286
080003	22.3957	22.1856	22.6814	22.4058
080004	19.7725	21.9391	23.0537	21.6106
080005	14.4289	*	*	14.4289
080006	22.2632	20.0792	21.1059	21.1131
080007	20.3833	19.6213	21.2441	20.4479
090001	25.8921	21.7526	19.4884	22.5234
090002	19.6997	19.4191	21.5726	20.1912

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
090003	28.6092	22.1090	23.1268	24.5792
090004	24.4267	24.3367	25.4836	24.6979
090005	24.8766	23.8620	26.1199	24.9264
090006	20.0816	20.8675	22.0789	21.0107
090007	21.6551	22.1973	29.2840	24.7855
090008	21.5972	20.2166	25.2708	22.3042
090010	15.8676	24.1287	23.6616	20.2595
090011	27.3741	27.4781	25.5395	26.7683
100001	17.6948	19.5796	19.4948	18.9110
100002	21.3243	20.7136	20.8100	20.9384
100004	15.2465	14.6283	15.4149	15.0845
100006	20.6302	20.1133	21.0230	20.6052
100007	21.7217	21.7242	21.8476	21.7676
100008	20.7232	20.4980	20.8381	20.6876
100009	24.2947	22.6419	20.1263	22.1819
100010	21.9101	21.9078	23.0637	22.2904
100012	18.5169	19.6177	20.4659	19.5030
100014	19.8352	19.8023	19.5770	19.7276
100015	18.2394	18.4779	18.0654	18.2696
100017	17.7739	19.0608	19.8655	18.9086
100018	20.8392	21.0332	21.0971	20.9923
100019	19.8134	22.6152	22.9645	21.7772
100020	26.1783	21.3848	20.7816	22.5004
100022	25.8853	26.4094	26.5695	26.2778
100023	21.1068	19.9739	19.1787	20.0604
100024	20.7760	21.8791	22.1332	21.6047
100025	19.1219	18.7774	19.4159	19.1009
100026	20.7591	20.5641	20.9461	20.7639
100027	12.9410	19.1481	14.7916	15.3484
100028	19.7491	19.3757	19.3371	19.4791
100029	19.1768	20.8745	20.8950	20.2753
100030	18.8229	22.8204	20.6176	20.6840
100032	19.3165	19.8127	19.7451	19.6185
100034	18.2314	17.8743	19.5282	18.5138
100035	19.5842	20.1540	23.7366	21.2058
100038	24.7851	23.3578	24.5864	24.2183
100039	20.2529	21.5297	21.7861	21.1854
100040	18.6417	19.0449	18.4371	18.7010
100043	17.5215	18.7993	18.8206	18.3605
100044	21.1370	21.4764	22.3808	21.6907
100045	20.7688	20.9216	20.5433	20.7423
100046	21.2094	21.6207	22.0001	21.5991
100047	18.8677	20.0114	20.6068	19.8263
100048	13.5021	15.0584	15.7790	14.8232
100049	18.5598	18.8535	19.1025	18.8421
100050	16.6058	17.2377	17.9039	17.2452
100051	18.8377	23.1273	17.9453	19.6449
100052	16.1855	17.9537	18.1780	17.4312
100053	18.7103	20.1724	19.6800	19.5213
100054	18.1853	23.5491	21.1710	20.9429
100055	17.6226	18.0547	18.8760	18.1971
100056	23.6545	25.7863	21.8506	23.8349
100057	18.7489	19.9712	19.5319	19.4242
100060	22.3904	23.2561	23.5983	23.0794
100061	21.7923	22.1133	22.9176	22.2483
100062	17.9575	19.4370	21.4424	19.6570
100063	16.2324	19.2629	18.4642	17.9066
100067	17.3950	18.0877	18.4851	17.9682
100068	18.6480	19.9305	19.8148	19.4667
100069	16.1393	16.8271	17.3666	16.7757
100070	20.3358	18.7408	19.5034	19.4826
100071	16.4756	17.5451	17.7234	17.2640
100072	19.2223	21.0225	20.1930	20.2012

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
100073	18.1554	21.1898	22.2812	20.4948
100075	18.0548	18.3688	19.4480	18.6211
100076	16.2469	17.8733	17.8612	17.3644
100077	19.6214	22.3438	18.0424	19.9689
100078	18.2791	18.4499	19.2891	18.6609
100080	21.1603	22.1966	21.4042	21.5955
100081	13.9564	14.8313	15.4253	14.7661
100082	19.8033	18.8998	*	19.3432
100084	20.4002	22.3674	22.0600	21.6577
100085	21.0802	22.1231	*	21.5986
100086	21.1625	21.6997	23.3718	22.0734
100087	23.1162	23.6090	23.3607	23.3648
100088	20.0571	20.3693	20.5566	20.3435
100090	17.8768	19.1479	19.7695	18.9939
100092	18.1953	17.9216	20.1760	18.7907
100093	16.6310	16.5128	16.8422	16.6633
100098	19.0319	19.2427	20.8315	19.7124
100099	15.2983	15.7823	15.7591	15.6112
100102	19.3330	18.9701	19.7673	19.3542
100103	18.1019	17.2364	18.7844	18.0201
100105	21.5028	21.6604	21.8268	21.6611
100106	19.3113	17.2527	17.4958	17.9164
100107	18.0142	20.1281	20.0396	19.3936
100108	11.4692	19.9593	20.1125	16.4375
100109	22.1715	20.8440	19.8488	20.8649
100110	19.6439	20.8995	20.1853	20.2509
100112	9.7706	25.2570	15.2128	15.6728
100113	22.2584	23.2020	28.8892	24.7828
100114	23.4501	21.6262	22.8178	22.5825
100117	18.8619	20.7624	20.6962	20.1889
100118	19.7608	22.8702	20.7323	21.1427
100121	19.3435	*	18.2789	18.7785
100122	18.0551	19.8783	19.2567	19.0659
100124	19.0527	17.0713	20.4022	18.8192
100125	17.3358	18.9535	19.6097	18.6719
100126	18.0943	19.5413	19.3103	18.9490
100127	19.8727	19.9860	19.2122	19.6859
100128	21.3653	20.1536	22.8826	21.4045
100129	18.5723	19.1936	*	18.8646
100130	19.1052	18.6751	20.0947	19.3019
100131	22.1680	23.4373	21.1195	22.2597
100132	16.8978	18.1167	18.7863	17.9218
100134	13.4711	15.1764	15.9733	14.8260
100135	17.4785	18.8253	19.0430	18.4539
100137	19.0464	18.6955	19.5562	19.1372
100138	11.0135	17.1373	14.9539	13.7935
100139	15.6444	15.6514	15.2532	15.5227
100140	17.3518	17.1389	19.0584	17.8826
100142	18.6812	19.6815	13.0623	16.5381
100144	15.0197	12.2877	*	13.4059
100145	19.1143	*	*	19.1143
100146	17.8692	18.1267	21.3359	19.1001
100147	14.6751	14.6616	15.2348	14.8665
100150	21.0224	21.2807	21.5057	21.2659
100151	19.3990	21.6087	23.8489	21.6478
100154	19.8485	20.0015	20.4068	20.1020
100156	17.1335	19.4980	18.4779	18.3856
100157	21.0324	22.6744	22.6195	22.1032
100159	16.3778	10.2793	6.3232	9.8839
100160	21.6339	20.5581	23.3121	21.8278
100161	21.5025	22.2994	22.4181	22.0895
100162	19.8748	20.1411	14.1842	17.5642
100165	18.5739	19.0388	22.6622	20.3299

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
100166	20.4228	20.0250	21.2309	20.5491
100167	21.8138	23.4075	23.2969	22.8605
100168	20.1260	20.1994	20.2632	20.1979
100169	20.7778	20.9506	20.6223	20.7811
100170	15.1167	18.5088	19.3005	17.5325
100172	15.1848	14.3446	14.8826	14.8099
100173	17.3416	18.5662	17.1337	17.6572
100174	20.5125	26.1826	21.9807	22.2819
100175	17.8237	18.1692	20.5477	19.0035
100176	24.6978	22.8604	24.3089	23.9493
100177	22.0034	24.4296	23.5394	23.2665
100179	20.9053	22.3015	18.4114	20.3782
100180	18.4754	20.2130	21.5180	19.9976
100181	24.5704	23.0800	18.9510	21.8206
100183	20.8579	24.6121	23.0654	22.6623
100187	20.6938	20.2533	18.7750	19.8300
100189	21.0102	21.3147	26.5962	23.0255
100191	18.4692	19.9879	18.8676	19.1050
100199	23.3713	21.7193	*	22.5030
100200	22.2575	22.4579	23.8729	22.8861
100203	18.8628	*	*	18.8628
100204	20.2049	20.8995	19.6128	20.2366
100206	20.3511	19.5710	20.1171	20.0138
100207	15.9173	*	*	15.9173
100208	20.8337	21.2117	20.7029	20.9220
100209	19.7329	22.4577	22.7340	21.6408
100210	19.1799	21.3575	21.8545	20.7662
100211	25.5277	20.6427	20.7516	21.9172
100212	25.3441	21.1187	20.6343	22.0357
100213	19.1238	20.6558	21.1818	20.2975
100217	19.8700	20.5909	22.7335	21.0211
100220	19.9121	21.2796	21.1605	20.7655
100221	22.2517	17.3965	21.2672	20.0933
100222	22.1958	*	*	22.1958
100223	18.7580	20.6302	18.6039	19.2991
100224	24.7023	20.0251	21.8799	21.8886
100225	20.6404	20.6802	21.1013	20.8046
100226	24.8641	20.6858	22.0308	22.2904
100228	23.6986	21.3168	20.9039	21.8386
100229	18.2070	19.6908	18.2350	18.7682
100230	20.6018	20.5051	22.5650	21.2357
100231	17.4002	17.9226	18.3597	17.8974
100232	17.3171	19.3491	19.8002	18.8267
100234	21.5763	20.9104	21.6362	21.3290
100235	17.6648	17.1622	*	17.4262
100236	21.8111	20.3766	19.9007	20.6153
100237	22.9344	22.0865	23.2408	22.7368
100238	17.6310	19.6367	20.8252	19.4032
100239	19.7605	21.3193	19.4481	20.1474
100240	17.9339	20.4340	21.0606	19.8014
100241	13.8344	14.7224	17.1063	15.0865
100242	17.1154	17.9260	18.6938	17.9097
100243	20.3838	21.2644	20.8041	20.8228
100244	17.4124	18.6227	20.5352	18.9148
100246	21.2160	19.6376	20.8989	20.5473
100248	21.5399	20.7007	21.3017	21.1691
100249	19.0243	19.2808	18.1397	18.8067
100252	17.8726	17.7778	19.8032	18.4710
100253	20.6014	21.3232	21.8890	21.2952
100254	20.9080	19.6598	19.5489	19.9883
100255	21.0224	25.2119	21.0284	22.2338
100256	23.5640	20.9356	20.8947	21.6340
100258	21.8764	21.3501	20.0300	21.0257

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
100259	19.8600	20.3815	21.1160	20.4723
100260	21.2224	21.0506	24.6599	22.2640
100262	19.5874	20.0433	21.0927	20.2558
100263	16.9012	*	*	16.9012
100264	17.6085	19.1556	19.9394	18.8935
100265	19.8571	18.8301	18.2291	18.8491
100266	17.7319	18.2993	19.3623	18.4763
100267	17.0986	20.1141	21.7430	19.6266
100268	23.5863	23.9249	24.0538	23.8633
100269	21.2047	21.6724	22.5114	21.8200
100270	19.8576	15.1462	16.7148	17.2012
100271	19.9208	20.4824	20.8695	20.4494
100275	21.3273	20.9188	21.2396	21.1563
100276	21.9797	22.3646	24.1022	22.8308
100277	16.1410	16.6255	19.7241	17.0041
100279	23.0213	22.9095	21.5291	22.5018
100280	16.5851	17.3676	18.1972	17.4129
100281	22.0202	22.4392	23.0142	22.5262
100282	19.7717	19.1978	17.7837	18.9361
100284	*	*	18.9448	18.9448
110001	18.0571	19.1971	20.1150	19.1086
110002	17.3674	17.1406	19.5113	18.0107
110003	16.9099	18.1168	17.1450	17.3940
110004	18.9468	19.5591	19.7733	19.4194
110005	19.2639	17.7348	21.4023	19.6576
110006	20.1273	20.7820	21.0601	20.6571
110007	23.4976	21.9505	25.0143	23.4851
110008	18.2642	22.0081	18.5265	19.5622
110009	14.8218	16.3069	17.4306	16.2843
110010	24.5493	23.3213	23.8794	23.9073
110011	18.2846	18.6144	18.9823	18.6368
110013	16.0264	16.2811	18.9160	17.1183
110014	16.1168	16.0658	18.1787	16.7192
110015	19.4769	21.2146	20.9926	20.5614
110016	15.2967	22.5321	14.2398	16.6540
110017	10.5399	13.1960	21.4010	15.0953
110018	21.0415	19.6064	22.1480	20.9298
110020	18.5251	18.3147	19.4457	18.7684
110023	18.6460	21.1994	21.8081	20.5099
110024	19.7923	20.7297	20.7345	20.4144
110025	18.6463	19.5749	20.4232	19.5033
110026	16.1414	17.2977	16.2484	16.5517
110027	14.6834	16.0642	14.8266	15.2090
110028	19.8894	20.1547	29.1670	22.3800
110029	20.0507	20.2906	19.6048	19.9639
110030	17.6785	18.8105	19.6354	18.7183
110031	21.5794	19.9482	20.0553	20.4598
110032	16.1859	15.7349	18.2014	16.6413
110033	21.4143	22.1879	25.1743	22.8060
110034	18.1882	19.6055	19.5554	19.0987
110035	21.1670	19.3795	22.7950	21.1658
110036	24.4181	22.2498	20.7284	22.3301
110038	16.3750	17.7060	17.5767	17.2140
110039	20.7710	20.6011	20.4998	20.6248
110040	16.4043	17.0743	16.8083	16.7529
110041	16.6927	18.8035	20.2755	18.6583
110042	20.6503	24.0153	25.2331	23.2575
110043	17.2175	20.1016	20.6150	19.2219
110044	19.5983	16.3624	17.2087	17.5794
110045	19.9445	20.2498	21.3049	20.4714
110046	19.2327	19.7377	21.4905	20.1167
110048	15.6463	16.3148	15.6113	15.8483
110049	14.2135	16.1817	16.8639	15.7669

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
110050	18.7516	20.7619	19.2291	19.5578
110051	15.7475	17.0070	17.2292	16.6496
110052	15.0562	*	*	15.0562
110054	19.2712	*	20.2638	19.7639
110056	16.4960	15.6202	15.8122	15.9689
110059	17.6984	16.6678	16.7990	17.0253
110061	13.7196	15.0367	16.3557	15.0889
110062	12.2107	18.8019	17.0053	16.1264
110063	17.9743	16.9612	18.5071	17.7965
110064	18.3368	18.9515	19.1203	18.8163
110065	13.3245	15.6771	16.3546	15.1604
110066	20.6502	21.0207	22.4189	21.3274
110069	18.3519	19.3109	20.9575	19.5384
110070	18.2264	21.0227	17.3438	18.7743
110071	14.8902	14.5984	18.8321	15.8863
110072	12.4303	12.7877	12.7625	12.6652
110073	15.1377	15.4261	16.4658	15.6663
110074	20.7572	21.3945	22.3769	21.5169
110075	17.0067	18.5199	20.1757	18.5793
110076	20.4430	21.2867	21.9798	21.2384
110078	24.7069	22.3718	24.0893	23.6954
110079	20.1385	21.0593	22.1070	21.0913
110080	23.4336	18.4768	19.1839	20.1449
110082	22.0078	23.8768	24.2358	23.3923
110083	21.3578	23.1219	23.1463	22.5746
110086	14.9756	18.2815	16.6374	16.5417
110087	20.5420	21.7773	22.7069	21.7189
110089	18.5761	18.5587	19.0889	18.7374
110091	21.3789	19.5114	21.5328	20.7784
110092	15.0890	17.3479	16.9725	16.4433
110093	14.8049	*	16.9827	15.7486
110094	13.8658	14.5641	16.9503	15.0650
110095	15.9478	16.4670	17.2273	16.5433
110096	16.3202	16.8541	17.4157	16.8647
110097	15.6164	15.5811	17.4558	16.1121
110098	14.0067	16.3532	16.0597	15.3226
110100	20.3764	18.6978	19.0764	19.3213
110101	11.7278	10.8187	18.8491	12.7872
110103	11.9352	13.6842	21.1837	14.0859
110104	15.3184	15.7781	15.8542	15.6538
110105	16.5196	16.8909	16.7775	16.7306
110107	17.3921	19.3609	19.3897	18.7335
110108	15.1401	19.7938	25.2161	19.3940
110109	16.3703	15.9359	16.4031	16.2270
110111	17.3215	18.5108	18.3951	18.0800
110112	19.1288	19.0619	19.8617	19.3018
110113	15.1896	16.8179	15.9532	15.9721
110114	15.1303	14.6888	16.4812	15.4358
110115	24.8332	43.9427	22.9566	28.0177
110118	15.3992	20.5368	19.7509	18.5122
110120	15.1878	15.2589	17.7429	15.9886
110121	15.5792	16.2711	19.1640	17.0021
110122	18.8497	21.1385	21.1469	20.3688
110124	17.1306	17.5732	18.3366	17.6460
110125	17.3254	19.1311	18.0692	18.1623
110127	13.7612	14.6143	20.3765	16.2641
110128	18.9705	18.1845	18.0835	18.4293
110129	18.1208	18.9388	19.0001	18.6851
110130	13.0779	16.0580	14.6011	14.6559
110132	15.0231	16.0419	16.3943	15.8158
110134	11.5583	12.5723	18.6076	14.6296
110135	17.0834	17.4380	17.3504	17.2967
110136	16.1680	18.0639	16.9629	16.8702

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
110140	17.8806	17.8870	17.7915	17.8571
110141	12.5051	13.2501	14.4935	13.4024
110142	12.3029	14.6144	13.9525	13.5947
110143	21.6898	20.1603	22.5926	21.5352
110144	17.9766	16.8685	17.5112	17.4397
110146	17.6068	16.1316	17.1835	16.9320
110149	22.2256	17.7535	32.1975	23.0615
110150	18.7724	20.2644	21.2909	20.0962
110152	14.7674	15.3996	15.1324	15.1011
110153	18.6862	19.2744	20.5068	19.4781
110154	14.8067	14.9636	17.3761	15.6408
110155	17.1370	15.5306	16.5146	16.3434
110156	15.3422	14.7477	16.3876	15.4698
110161	20.8657	21.7153	22.2861	21.6563
110163	18.2016	20.4202	18.6088	18.9884
110164	19.4946	20.2074	21.2301	20.2993
110165	18.9974	21.2577	20.8030	20.3401
110166	19.8510	20.5882	20.5637	20.3331
110168	19.8178	20.6646	21.8508	20.8181
110169	18.7189	20.6385	22.6648	20.4216
110171	20.0874	23.7893	25.5187	22.6232
110172	25.4390	23.3730	23.6761	24.1702
110174	14.2978	13.7339	14.6199	14.1905
110176	22.3971	*	*	22.3971
110177	19.5888	20.7187	21.2661	20.5227
110178	16.8555	18.8306	*	17.8083
110179	20.5161	22.7841	22.8884	21.9497
110181	13.7195	14.0941	12.9798	13.6399
110183	21.1797	23.3826	22.5148	22.3473
110184	20.9465	22.1970	22.1920	21.7791
110185	16.2487	16.7246	17.7925	16.9013
110186	17.3398	17.4287	18.3013	17.6927
110187	21.4462	20.1154	19.8419	20.4516
110188	20.0548	24.8376	23.7089	22.6478
110189	18.8627	22.2715	20.8786	20.7023
110190	19.4318	18.5728	18.3649	18.7761
110191	19.1065	20.2033	21.4033	20.2583
110192	20.7660	21.4951	21.0390	21.1032
110193	18.7807	20.6380	20.7867	20.0518
110194	15.0937	15.1480	14.8115	15.0165
110195	10.5227	13.9135	12.7261	12.3146
110198	26.1898	24.1999	24.4684	24.9086
110200	17.2129	18.1862	16.0807	17.1358
110201	19.2438	20.4699	21.0011	20.2421
110203	20.2958	26.8148	22.7453	23.1944
110204	20.5728	19.7317	30.7342	21.7754
110205	26.1154	21.1435	21.3617	22.7145
110207	12.8710	12.9727	14.7154	13.5335
110208	14.8907	15.1742	15.6161	15.1789
110209	20.4640	17.9190	18.6404	18.9942
110211	21.8226	20.9372	26.9151	23.1427
110212	12.6583	11.8545	14.3790	12.8830
110213	13.1976	14.3651	*	13.7453
110215	*	20.1928	18.1539	19.0047
110216	*	*	27.1878	27.1878
110217	*	*	34.0758	34.0758
120001	26.7134	27.9213	29.0427	27.8237
120002	24.3780	25.0744	25.2021	24.8896
120003	23.8452	25.9059	23.9115	24.5394
120004	24.0456	23.9208	24.8632	24.2413
120005	20.5380	23.3975	24.1662	22.6197
120006	23.7151	25.0895	25.8943	24.8700
120007	23.2684	22.7200	22.8772	22.9509

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
120009	19.0216	17.4693	16.4621	17.5649
120010	25.3976	25.1480	24.1923	24.8868
120011	33.5459	35.0582	37.2759	35.3313
120012	22.5219	23.1144	21.8507	22.5391
120014	24.0467	22.8866	24.0359	23.6453
120015	29.0747	32.9906	42.6465	33.1800
120016	29.4104	27.9127	45.6878	31.2151
120018	25.6088	24.5031	31.1879	26.2841
120019	21.9199	22.9341	25.5659	23.4285
120021	19.4236	23.4508	23.1839	21.8865
120022	17.9306	21.7868	19.0792	19.4460
120024	22.2846	29.4808	32.2514	26.8486
120025	19.0197	20.1065	50.6376	21.3455
120026	23.2237	26.0787	25.1314	24.7719
120027	24.5549	24.7255	24.4535	24.5737
120028	23.4873	27.5023	27.0897	25.8902
130001	24.9511	18.8471	17.6306	20.1752
130002	16.1853	16.6620	16.9867	16.6200
130003	19.9499	21.7313	22.3600	21.3642
130005	20.1678	20.7169	21.2386	20.7149
130006	18.8705	19.3392	20.4614	19.5797
130007	19.8442	20.8338	21.8107	20.8426
130008	12.9177	12.5506	13.6018	12.9892
130009	18.2958	19.1837	15.9701	17.7296
130010	21.4325	17.6795	17.5119	18.7875
130011	19.0816	20.5031	20.1147	19.9190
130012	22.6153	22.9813	24.9976	23.5891
130013	19.2170	17.4038	15.1129	17.1523
130014	17.9836	18.9769	19.1105	18.6941
130015	15.2662	15.7233	18.5913	16.3849
130016	16.9987	17.3942	19.0516	17.7864
130017	16.8822	17.1710	19.6875	17.7220
130018	17.9651	19.7368	19.8425	19.2288
130019	17.2317	18.6648	19.1711	18.3322
130021	12.2562	12.8588	15.6155	13.6528
130022	19.5040	16.5270	18.9127	18.2241
130024	18.3789	19.3634	19.0703	18.9600
130025	15.2691	17.5213	16.4627	16.4881
130026	20.5535	21.5934	21.8106	21.3093
130027	20.7044	21.4279	20.5344	20.8883
130028	18.2074	19.1093	20.9674	19.4388
130029	20.3153	18.4263	18.7694	19.1364
130030	18.3981	17.8440	17.5759	17.9347
130031	17.6458	16.2397	16.7766	16.8967
130034	18.8164	16.9873	18.9483	18.2785
130035	20.4708	19.3478	20.7770	20.1943
130036	13.7942	13.7933	13.6362	13.7373
130037	17.7374	18.8071	18.6856	18.3986
130043	16.0686	16.5102	16.7904	16.4511
130044	13.1816	17.8160	13.4513	14.6424
130045	16.4655	16.0990	19.0208	17.0869
130048	15.0924	16.0899	16.7900	15.9311
130049	20.3928	20.3129	22.4440	21.0760
130054	17.7802	17.2729	17.7085	17.5766
130056	15.6551	14.6862	20.9476	16.5492
130058	17.7462	*	*	17.7462
130060	20.8508	21.8662	22.7399	21.8288
130061	16.7839	15.4006	14.7394	15.6929
130062	15.1086	16.5672	19.8157	17.1915
130063	*	15.9441	18.8024	17.8420
140001	15.4448	16.3372	17.7990	16.4814
140002	19.2575	19.0248	19.9284	19.3999
140003	18.0001	21.2886	17.8595	18.9466

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
140004	17.5200	15.7042	17.4574	16.8965
140005	10.8718	11.6127	12.3002	11.5858
140007	22.4015	22.9799	23.0743	22.8202
140008	21.2844	21.6548	22.0157	21.6522
140010	25.2227	31.8207	28.4268	28.3237
140011	17.2856	17.8676	18.6164	17.9499
140012	19.4406	23.0653	21.0475	21.1353
140013	17.3488	18.3060	19.6722	18.4213
140014	20.7563	22.4737	23.0372	21.9976
140015	15.0232	16.6735	17.6805	16.4314
140016	12.5363	13.1278	14.4938	13.3972
140018	21.4147	22.3070	24.6202	22.7573
140019	15.3435	16.6548	16.4254	16.1654
140024	14.6674	16.8271	15.3782	15.5912
140025	16.9489	16.9462	18.5135	17.4713
140026	15.9557	16.6612	18.3220	16.9446
140027	17.5023	18.7553	19.2149	18.5013
140029	21.0358	22.8322	26.0833	23.2140
140030	22.4414	21.9475	22.1760	22.1946
140031	15.9442	19.5731	17.6067	17.6942
140032	17.3363	18.1058	19.0383	18.1645
140033	22.5583	24.1722	25.1639	23.9291
140034	19.1482	19.5278	19.7903	19.4886
140035	12.9963	15.2649	15.5040	14.5633
140036	17.0419	18.5771	19.1076	18.2935
140037	12.5012	13.0764	14.1083	13.2105
140038	17.6094	18.3035	18.4624	18.1246
140040	16.2462	19.9267	16.7450	17.5895
140041	17.2829	17.6582	23.7556	19.4569
140042	15.6092	15.4095	15.8892	15.6354
140043	18.9464	19.4683	20.1176	19.5022
140045	20.6541	15.5807	17.7799	17.9528
140046	16.4621	18.9763	18.6371	18.0097
140047	16.3298	17.1539	13.3610	15.4382
140048	20.5773	24.0913	22.7155	22.4684
140049	21.5937	28.4958	26.9483	25.7338
140051	20.8455	23.8264	23.0662	22.5696
140052	19.6045	19.6409	17.5433	18.8875
140053	17.8218	19.1892	19.5761	18.8494
140054	26.1497	22.1921	23.2565	23.8024
140055	14.8031	16.3404	14.3603	15.1391
140058	17.2716	17.4927	18.6861	17.8100
140059	15.3934	15.0195	*	15.1978
140061	15.9612	17.3012	18.2039	17.1185
140062	27.0912	28.0877	28.6768	27.9630
140063	22.3882	25.3641	24.0303	23.8508
140064	19.2549	19.1023	18.9379	19.0960
140065	23.1610	24.1128	25.3336	24.1516
140066	16.1759	17.3902	13.6491	15.5770
140067	18.4031	19.3267	19.5292	19.0846
140068	18.8739	19.9691	21.6188	20.0995
140069	16.1453	16.7544	17.3879	16.7949
140070	19.2995	22.9678	22.7153	21.2244
140074	19.0077	19.3504	21.6052	19.9120
140075	22.5083	21.6313	21.0600	21.7539
140077	16.6447	17.5305	17.3647	17.1709
140079	21.9205	23.3020	23.6928	22.9153
140080	20.9999	21.0739	22.0345	21.3383
140081	15.5103	16.2247	16.9808	16.1897
140082	22.6227	23.8960	29.6534	24.8396
140083	18.1349	19.3145	21.0096	19.4873
140084	20.0133	20.9709	22.3467	21.0939
140086	17.3717	18.3803	19.1613	18.3356

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
140087	18.3639	16.1009	17.1147	17.1839
140088	24.2568	25.2369	22.0679	23.8109
140089	17.2086	17.6366	18.3157	17.7164
140090	23.5888	26.4325	27.0060	25.4162
140091	20.7039	20.9018	21.9322	21.1441
140093	19.1469	18.2899	20.1528	19.1437
140094	20.6129	21.4709	21.9383	21.3227
140095	21.5376	24.0549	23.3001	22.8780
140097	16.8997	17.5081	21.1719	18.4160
140100	19.0588	21.3581	23.1399	21.1571
140101	26.0894	21.5473	21.7186	22.8766
140102	15.0777	17.1500	17.5729	16.5644
140103	17.8586	19.2783	18.1303	18.4145
140105	20.9068	22.6573	22.6913	22.0594
140107	12.7573	13.7533	11.8383	12.6800
140108	28.6028	25.4742	26.9971	26.9964
140109	15.4724	15.7465	14.5498	15.2467
140110	18.8112	19.1822	19.2888	19.0728
140112	16.2399	17.6856	17.6974	17.1885
140113	17.9151	19.0592	18.8593	18.5977
140114	20.4808	21.1639	21.8154	21.1561
140115	20.0939	21.1926	21.0433	20.7564
140116	21.8290	23.1177	23.7281	22.8966
140117	19.6445	21.5671	20.4740	20.5537
140118	23.0797	23.5952	24.2708	23.6385
140119	26.5042	29.1419	27.2387	27.6111
140120	14.8375	18.0743	17.9716	16.8874
140121	9.5268	16.0397	16.6993	13.2257
140122	23.7473	24.6470	25.8773	24.7639
140124	26.9706	27.1906	27.9517	27.3458
140125	17.0974	17.6759	16.9735	17.2524
140127	19.4259	19.8973	17.5075	18.9895
140128	17.6751	19.4955	23.1327	20.0664
140129	15.2494	18.2639	20.2868	17.8627
140130	23.7682	22.2285	23.1873	23.0442
140132	23.0443	23.5475	23.3054	23.2992
140133	19.9083	21.4090	21.1453	20.7897
140135	17.6927	17.8100	17.3985	17.6268
140137	16.5141	16.8969	18.6330	17.3470
140138	14.5877	16.7420	17.1968	16.2121
140139	16.5794	14.0619	11.0397	13.5138
140140	15.2985	17.8243	17.6845	16.9747
140141	15.1782	17.5204	19.1097	17.2133
140143	18.7616	19.1862	18.9984	18.9893
140144	19.7913	21.3245	22.2864	21.1022
140145	16.6111	17.5471	18.1788	17.4556
140146	23.7400	21.9573	19.9704	21.7285
140147	24.8191	16.1336	18.8049	19.2135
140148	19.5026	18.6598	17.9816	18.6917
140150	27.8485	27.3378	26.7896	27.3222
140151	19.3016	21.3896	20.0310	20.2086
140152	22.4270	24.6333	24.9613	23.9173
140155	17.3131	19.9738	19.5083	18.8605
140158	22.2666	22.7639	22.7988	22.5990
140160	17.8822	17.7691	17.7921	17.8132
140161	19.0448	20.0948	20.3799	19.8258
140162	18.4167	19.6464	20.3452	19.4479
140164	18.6120	18.7806	18.6589	18.6860
140165	15.4186	14.9156	14.7223	15.0080
140166	17.5434	17.5496	18.2503	17.7751
140167	16.5671	17.1479	17.6525	17.1325
140168	16.4638	16.6770	17.7453	16.9752
140170	14.1360	16.1621	16.4107	15.5211

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
140171	14.7316	14.1637	15.0237	14.6354
140172	20.7982	23.8431	21.0186	21.8883
140173	18.4788	15.1487	16.3924	16.7054
140174	19.9216	20.5339	40.5916	23.4138
140176	21.4129	23.2866	24.0512	22.8950
140177	18.1692	18.2648	15.0827	17.1204
140179	22.6989	21.1948	21.9258	21.9422
140180	23.2536	22.4548	22.5661	22.7489
140181	20.5461	20.8709	21.9155	21.0777
140182	20.7013	22.0170	22.5552	21.7590
140184	14.9763	17.8155	17.2401	16.6194
140185	17.3616	17.6514	18.2867	17.7696
140186	18.9878	22.7890	21.0934	20.9521
140187	17.6910	17.9201	18.3331	17.9863
140188	14.8373	15.2479	16.1907	15.4001
140189	19.0791	21.0616	20.6627	20.2758
140190	15.8770	16.3366	17.5263	16.5534
140191	24.7368	25.8835	25.2628	25.2833
140193	15.5196	15.8022	17.4057	16.2409
140197	17.9828	18.6394	19.3774	18.6752
140199	18.8333	18.3507	18.0450	18.4044
140200	21.6508	21.5220	20.0559	21.0333
140202	22.1800	22.1939	22.2334	22.2042
140203	20.7854	19.9194	21.0848	20.5915
140205	17.2369	17.4751	20.0784	18.0505
140206	20.5096	21.3295	22.5109	21.4570
140207	20.2048	21.9779	22.3905	21.3996
140208	23.9441	25.9900	26.2527	25.3856
140209	17.7889	18.1206	20.1557	18.6405
140210	12.6648	15.6899	14.8248	14.4319
140211	20.9615	21.8891	22.6265	21.8594
140213	26.2041	27.0645	23.9146	25.7381
140215	14.4544	15.9949	15.2893	15.2456
140217	23.3192	24.8229	25.4896	24.5129
140218	15.0750	14.9459	14.9851	15.0038
140220	16.7341	17.6370	17.8450	17.4280
140223	21.4725	24.9249	24.8504	23.6225
140224	22.9945	25.8668	32.8061	26.7812
140228	18.6731	19.6988	19.7113	19.3775
140230	16.5979	18.0918	18.2983	17.6740
140231	21.6062	23.9176	24.5019	23.4404
140233	18.3703	19.4542	21.8857	19.8854
140234	18.7156	18.9945	*	18.8552
140236	13.1341	*	12.9253	13.0112
140239	18.8785	18.8127	19.6792	19.1309
140240	24.2141	23.6860	24.4498	24.1185
140242	22.6679	24.5428	25.1416	24.1471
140245	15.5554	13.4839	14.2481	14.3597
140246	12.8238	13.4639	11.6267	12.5798
140250	23.4127	25.0876	23.6449	24.0578
140251	20.5813	21.4385	21.8059	21.2700
140252	24.4856	25.2246	24.9718	24.8965
140253	16.7356	18.5511	19.5858	18.2440
140258	21.1321	23.2973	25.0755	23.1842
140271	15.3606	15.5079	12.0079	14.1590
140275	17.9597	20.1699	23.8171	20.5857
140276	23.7163	26.6777	25.3078	25.2303
140280	18.8420	20.2360	18.8300	19.2649
140281	23.3433	24.0192	25.2719	24.2302
140285	14.7087	18.1181	17.3787	16.8092
140286	19.9500	20.3735	22.1015	20.8673
140288	21.8213	25.2327	24.4331	23.7989
140289	16.4542	17.1388	18.1747	17.3055

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
140290	21.2384	21.1784	22.8465	21.7717
140291	22.4352	25.0911	24.9537	24.1790
140292	22.7136	20.8560	21.4533	21.6516
140294	17.5226	17.7226	17.7301	17.6645
140297	21.4692	*	*	21.4692
140300	23.2560	25.3662	27.8436	25.5898
150001	21.6990	22.8109	24.0620	22.8643
150002	18.7568	19.3401	19.7035	19.2828
150003	19.3117	19.7661	20.8636	19.9824
150004	19.7020	20.3685	21.2449	20.4349
150005	18.9964	20.6260	21.1610	20.2631
150006	20.0433	20.8158	20.6523	20.5130
150007	19.5255	20.1826	20.6635	20.1487
150008	20.9684	21.4545	21.8457	21.4285
150009	18.2168	18.7073	18.5540	18.4858
150010	18.4776	21.7125	20.5570	20.1836
150011	19.1957	18.3742	18.3041	18.6202
150012	20.5193	22.4751	22.1402	21.6785
150013	16.0043	17.0352	16.9327	16.6522
150014	21.2812	22.0143	21.5168	21.6212
150015	22.0452	22.5409	21.9037	22.1546
150017	18.8898	18.7664	19.5361	19.0702
150018	19.5612	20.4947	20.7080	20.2547
150019	15.2892	16.6327	17.8585	16.5672
150020	14.4592	15.1120	16.6600	15.3745
150021	19.0162	19.5096	21.5636	20.0344
150022	17.9206	19.1555	17.9222	18.3309
150023	18.6641	18.3598	19.0270	18.6729
150024	17.8311	18.4140	19.0380	18.3973
150025	18.1490	17.7007	12.7222	15.7084
150026	20.5085	18.8417	22.4284	20.5038
150027	16.4846	17.3284	18.0335	17.2600
150029	21.7414	23.0546	23.2454	22.7440
150030	17.3296	17.9992	18.6947	18.0196
150031	18.0060	17.2429	18.3463	17.8675
150032	20.6391	*	*	20.6391
150033	21.6854	21.8768	22.7658	22.1130
150034	21.2868	22.1317	23.1533	22.1845
150035	19.8177	20.4477	21.2374	20.5107
150036	20.3848	20.8692	21.4567	20.9448
150037	17.7868	21.7109	24.0213	21.0127
150038	20.2503	21.2193	22.0572	21.2025
150039	17.4919	18.4729	19.6215	18.5025
150042	17.1241	18.1632	20.0557	18.3464
150043	17.9834	19.0120	20.1741	18.9948
150044	17.6432	18.4381	19.1309	18.4093
150045	17.0395	16.8121	18.1670	17.3563
150046	17.3210	17.6342	18.2543	17.7460
150047	24.8819	19.7441	22.0305	22.1067
150048	16.9573	19.3329	19.1648	18.5048
150049	16.8529	17.0141	18.5099	17.4307
150050	17.1442	16.8354	17.7354	17.2410
150051	18.1990	19.0130	19.1637	18.7924
150052	15.3618	15.8590	17.3750	16.2411
150053	18.7463	19.1421	18.8632	18.9165
150054	17.3296	17.3825	18.3916	17.7528
150056	23.2991	22.4087	21.5774	22.2457
150057	16.8630	16.5882	16.9736	16.8076
150058	20.9537	20.8178	23.0807	21.5904
150059	20.8004	21.2535	22.7360	21.5830
150060	16.0098	17.0743	18.0032	17.0216
150061	17.2141	17.3887	19.7968	18.0770
150062	18.4110	20.5415	20.8274	20.0239

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
150063	21.0899	22.0925	22.6525	21.9213
150064	17.0309	18.1400	20.3865	18.5718
150065	19.0051	19.8913	21.2153	20.0425
150066	14.5977	15.3373	19.5313	16.4634
150067	17.0829	18.2926	18.8862	18.0821
150069	17.3918	21.5310	23.3969	20.9447
150070	17.1992	17.9260	18.0827	17.7417
150071	14.7306	13.4760	13.5111	13.9122
150072	16.1091	16.2054	15.0765	15.7702
150073	19.0292	22.2968	*	20.5664
150074	18.8597	20.4175	20.1054	19.7802
150075	14.9786	15.5603	16.7532	15.7414
150076	22.3407	22.9382	22.6424	22.6387
150077	17.5750	*	*	17.5750
150078	19.0096	19.2718	19.9668	19.4018
150079	15.4545	17.2436	18.0265	16.8569
150082	17.8796	17.5265	17.8162	17.7421
150084	22.9159	23.2506	23.9940	23.3857
150086	17.3442	18.9735	18.2185	18.1968
150088	19.4475	18.9869	20.3366	19.5726
150089	22.9458	23.8791	21.3690	22.6571
150090	19.0595	20.7726	21.0945	20.2459
150091	19.8912	20.4053	22.4640	20.9087
150092	15.9174	16.7434	16.9179	16.5364
150094	18.3410	16.5788	17.5244	17.5067
150095	17.1187	17.1324	19.2749	17.7838
150096	20.0281	23.2764	20.2897	21.1086
150097	18.3103	19.3802	19.7751	19.1545
150098	14.2953	15.0943	13.8800	14.4383
150099	18.9718	22.4229	*	20.3545
150100	17.4776	18.4148	19.8066	18.6620
150101	17.5554	16.4604	15.9718	16.6097
150102	11.5034	19.7426	23.7180	17.1422
150103	17.3064	18.4781	18.7036	18.2137
150104	17.2642	17.6981	20.0765	18.3399
150105	19.1709	20.0431	22.4412	20.4692
150106	18.9097	16.1510	15.7497	16.7986
150109	18.2289	18.8077	19.6344	18.8790
150110	18.5752	18.6627	21.9336	19.5289
150111	16.1707	18.4556	19.2355	17.8619
150112	19.8155	20.4109	20.5253	20.2569
150113	19.1988	20.3780	19.6603	19.7455
150114	16.9638	19.5183	17.9877	18.1743
150115	17.0627	17.4315	18.2882	17.5968
150122	19.3545	18.7139	17.7867	18.6097
150123	15.1552	14.1105	15.1583	14.8238
150124	15.0706	14.6245	15.6449	15.1149
150125	20.3198	20.6735	21.3115	20.7738
150126	20.2958	21.3697	20.6857	20.7640
150127	22.8129	17.1994	17.0052	18.8048
150128	19.9205	18.5100	19.5158	19.3219
150129	23.4718	24.7711	28.6211	25.2796
150130	16.4144	18.1971	18.4846	17.6635
150132	19.4805	20.1684	20.9443	20.1836
150133	16.4910	17.3966	16.0923	16.6709
150134	17.0612	19.2526	19.3632	18.5912
150136	19.2819	20.1245	21.8097	20.3987
150145	*	16.6851	*	16.6851
150146	*	*	19.0204	19.0204
160001	19.0279	18.6035	19.0085	18.8767
160002	15.3724	15.9534	16.6003	15.9668
160003	15.7747	16.0862	16.2208	16.0221
160005	15.2320	17.6153	17.9405	16.9144

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
160007	15.6638	13.2101	15.1738	14.6237
160008	14.9698	15.9742	16.6410	15.8545
160009	16.0919	16.8391	17.9886	16.9591
160012	16.5409	16.4827	16.7112	16.5761
160013	17.0602	18.3996	18.6304	18.0298
160014	15.0861	15.9086	16.7146	15.8981
160016	18.3710	19.6322	19.9747	19.3376
160018	14.1634	14.5946	15.6141	14.7975
160020	14.4135	15.4712	15.5384	15.1417
160021	15.4860	16.5049	16.7617	16.2368
160023	14.2015	15.0665	15.0099	14.7723
160024	18.9548	19.7050	19.4764	19.3806
160026	18.6624	18.8379	19.5260	19.0040
160027	15.7403	16.3477	16.9417	16.3376
160028	20.5416	19.9595	21.0000	20.4893
160029	20.4003	20.4678	21.3457	20.7382
160030	17.9860	19.9508	19.6182	19.1837
160031	15.2831	15.2448	16.1267	15.5484
160032	16.1820	17.3202	18.3168	17.2888
160033	18.3736	18.8673	18.8205	18.6982
160034	14.5053	15.0019	16.5957	15.3739
160035	15.9199	15.2211	16.3991	15.8029
160036	19.1984	17.8849	17.4558	18.1820
160037	18.3968	19.0532	19.5211	18.9895
160039	17.6272	17.4758	17.8647	17.6551
160040	16.8295	18.1949	18.0667	17.6917
160041	15.4700	16.7850	17.4435	16.5782
160043	15.6261	15.6909	14.8564	15.3356
160044	16.0385	16.7439	17.8323	16.9072
160045	20.1154	20.1236	19.4334	19.7761
160046	14.7672	14.5655	16.2737	15.1831
160047	16.6926	18.3593	19.0787	18.0537
160048	13.1417	14.6144	15.6856	14.5140
160049	13.3614	14.5457	15.5673	14.5017
160050	16.4161	17.4912	17.7878	17.2198
160051	14.2660	14.6400	16.4261	15.1036
160052	17.5509	18.0941	21.7647	19.2313
160054	15.7093	16.1753	16.1981	16.0321
160055	14.0647	14.7600	15.1674	14.6539
160056	15.3758	16.1575	17.0172	16.1537
160057	17.4101	18.1776	19.1378	18.2553
160058	20.3402	21.1159	22.1061	21.1598
160060	15.9527	16.0436	17.2825	16.3968
160061	17.5707	17.3215	16.6061	17.1891
160062	14.4433	17.8086	17.4388	16.4393
160063	16.2960	16.8834	16.3583	16.5061
160064	19.9135	20.5496	21.0458	20.5185
160065	16.5087	16.9373	17.1043	16.8758
160066	16.2651	17.1875	17.9971	17.1716
160067	17.8551	17.8514	16.7833	17.4322
160068	15.8526	17.9892	19.0572	17.5565
160069	18.4857	19.7280	19.1640	19.1095
160070	15.6647	16.7017	18.4588	16.9299
160072	14.1920	14.9536	14.4141	14.5422
160073	15.0526	11.8261	11.4997	12.6736
160074	16.4772	19.5092	17.9513	18.0038
160075	17.8870	19.4948	18.4613	18.6342
160076	17.3086	17.9381	17.8824	17.7060
160077	11.4028	12.8826	13.6658	12.6451
160079	17.7050	17.6187	18.6333	17.9899
160080	17.8143	18.6687	19.4925	18.6704
160081	16.5150	17.0052	17.4466	17.0164
160082	18.7630	19.6499	19.5322	19.3143

* Wage data not available for the provider that year.
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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
160083	18.4078	20.6189	19.7542	19.5937
160085	18.5510	18.0063	21.2557	19.2281
160086	16.4558	17.3271	17.5308	17.0998
160088	17.5331	20.2331	22.3655	19.9346
160089	16.7419	16.9538	17.3449	17.0079
160090	16.6002	17.1090	17.9614	17.2461
160091	12.1893	12.8516	14.2573	13.0755
160092	15.7979	15.5011	17.0633	16.0971
160093	15.9525	17.7457	18.5675	17.5141
160094	16.5609	18.7653	17.6094	17.6731
160095	14.2649	15.1895	15.2722	14.9322
160097	15.2079	15.9263	16.6790	15.9380
160098	15.5385	16.3135	16.8670	16.2509
160099	13.7864	13.9053	15.0880	14.2533
160101	17.8654	18.3705	18.9788	18.3824
160102	18.3631	18.8765	20.1161	19.0875
160103	17.1519	17.0973	18.2741	17.4869
160104	19.7387	18.8301	17.4829	18.7797
160106	16.6624	16.9639	17.3474	16.9910
160107	16.5622	18.0634	18.0097	17.5762
160108	15.4183	16.0529	16.7779	16.0861
160109	16.4885	16.5593	17.9873	16.9740
160110	18.8056	19.1420	20.6215	19.5351
160111	13.1689	14.1644	14.9965	14.0808
160112	16.2829	16.8332	17.2450	16.7911
160113	14.5838	14.7097	15.4834	14.9308
160114	15.5812	16.1423	16.5006	16.0651
160115	15.7566	15.8995	16.5654	16.0764
160116	16.6927	16.9534	16.6993	16.7818
160117	17.2914	17.9410	18.7615	17.9848
160118	15.8351	17.2523	19.4472	17.5046
160120	12.5642	10.5992	15.6789	12.4454
160122	18.5214	18.9252	18.1469	18.5357
160124	17.1642	18.0908	19.1600	18.1198
160126	17.7397	17.8142	19.4903	18.3068
160129	15.8914	16.7131	17.2112	16.5953
160130	15.4477	16.0528	15.6666	15.7242
160131	14.6874	15.4898	16.0424	15.4292
160134	13.3246	13.4743	15.3012	14.0359
160135	16.3294	18.2682	18.7711	17.7744
160138	15.7076	16.8699	17.1491	16.5906
160140	18.7962	18.4007	18.5630	18.5823
160142	16.1372	16.2875	18.1467	16.8318
160143	15.9240	16.6154	17.4497	16.6799
160145	15.1745	13.9152	16.9092	15.2763
160146	16.3532	16.6024	17.7010	16.8728
160147	18.3917	17.4880	19.4041	18.3938
160151	15.7384	16.8257	17.2177	16.5833
160152	15.2179	15.6170	15.9500	15.5914
160153	19.6927	20.2316	21.2085	20.3741
170001	17.4383	17.9304	17.9218	17.7616
170004	13.0635	15.0636	16.1442	14.7434
170006	19.3075	17.2192	17.5982	17.9438
170008	13.9009	14.9124	16.8412	15.1327
170009	19.5867	20.7795	23.1349	21.2143
170010	17.8995	18.7384	19.4584	18.6890
170012	16.7886	17.8719	18.3965	17.6979
170013	17.8949	18.6454	19.4667	18.6963
170014	17.3379	17.9349	18.4616	17.9223
170015	15.8887	16.5750	17.1302	16.5216
170016	19.6393	19.2130	20.0675	19.6307
170017	17.8690	17.7958	19.5994	18.4143
170018	14.2759	15.2984	15.3237	14.9817

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
170019	16.6611	15.2094	16.9362	16.2597
170020	16.1460	17.3400	18.1325	17.2351
170022	17.9383	18.5309	19.1888	18.5543
170023	19.3585	19.1351	19.2441	19.2444
170024	13.0566	13.6803	14.3604	13.6835
170025	16.3716	17.8667	18.7182	17.6087
170026	13.3122	15.0470	14.8974	14.3412
170027	16.3859	17.3604	17.8690	17.2095
170030	15.2397	14.6530	15.9282	15.2488
170031	13.4670	13.9601	14.2151	13.8715
170032	14.4835	15.6093	16.3449	15.4817
170033	16.0529	16.4059	19.1952	17.1087
170034	14.6349	15.8202	16.9586	15.7633
170035	15.6240	18.5885	17.0945	17.0832
170036	14.1732	*	*	14.1732
170038	14.2092	14.7776	13.8582	14.2922
170039	14.2952	15.8635	17.0774	15.7642
170040	20.1419	21.6440	19.4713	20.4318
170041	11.4691	11.7566	12.4488	11.8690
170044	14.7801	15.3011	17.3254	15.8168
170045	12.1066	14.0875	24.6556	16.5680
170049	18.5821	19.9415	20.7921	19.8083
170051	14.1572	15.0889	16.4851	15.2703
170052	14.6176	15.0108	15.2283	14.9500
170053	9.0407	16.5102	14.6133	11.9759
170054	12.7655	14.4353	14.6354	13.9214
170055	14.9875	16.9800	18.2607	16.7698
170056	14.8656	17.0442	18.2840	16.8012
170057	15.0892	13.0007	*	13.9776
170058	18.3389	18.6983	19.5415	18.8159
170060	17.2271	17.3482	18.9853	17.7512
170061	14.1380	15.6527	15.0258	14.9459
170063	11.3284	12.8082	14.1185	12.6216
170064	12.4183	*	*	12.4183
170066	14.4790	15.5322	16.2891	15.4168
170067	12.7846	14.7492	14.9921	14.1535
170068	15.8175	15.1790	17.0022	15.9795
170070	12.8158	14.2445	14.0627	13.7083
170072	13.3379	12.6329	12.7709	12.9159
170073	16.4690	17.5368	17.7056	17.2186
170074	14.4009	17.5537	17.3699	16.4326
170075	11.2598	12.4212	13.6816	12.5950
170076	13.5820	14.5866	14.6109	14.2394
170077	12.7244	13.5235	13.9104	13.3651
170079	14.2859	13.5261	11.5902	13.1470
170080	12.2012	12.6014	14.8293	13.1562
170081	12.5122	13.8077	14.6823	13.7421
170082	12.3902	12.8563	13.7464	12.9855
170084	12.1611	12.5410	13.0519	12.5742
170085	14.5069	15.4518	17.5422	15.9150
170086	19.8496	20.4068	19.7182	19.9991
170088	11.7505	13.4542	13.4860	12.9031
170089	18.0823	18.8136	15.4860	17.4574
170090	11.2747	11.9147	10.9444	11.3947
170092	12.8507	*	*	12.8507
170093	12.7780	13.5490	14.0276	13.4193
170094	17.7091	20.1985	21.2035	19.6936
170095	15.7469	15.5463	15.3532	15.5482
170097	15.8504	16.4608	17.6255	16.6758
170098	14.1026	15.5259	16.6210	15.4425
170099	13.5509	13.6033	14.3370	13.8072
170100	14.4700	*	*	14.4700
170101	12.8847	14.5629	18.0143	14.7718

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
170102	13.2434	13.6321	14.2048	13.6933
170103	16.6578	17.2844	17.9530	17.2887
170104	19.7645	20.6182	20.9336	20.4421
170105	15.9290	16.5408	16.7403	16.4083
170106	14.6773	18.5479	17.7467	16.9030
170109	16.9421	17.2629	16.9782	17.0622
170110	15.5549	16.9823	18.5731	17.1658
170112	13.3908	14.3855	15.4049	14.4270
170113	13.3935	13.9038	14.6486	13.9920
170114	14.5116	14.4545	16.0283	14.9432
170115	12.6815	12.6997	12.9216	12.7709
170116	15.7566	16.8714	18.0591	16.9087
170117	15.2818	15.7875	16.8237	15.8968
170119	13.9673	15.1990	15.2708	14.7822
170120	16.2122	17.6748	17.4917	17.1241
170122	20.1266	20.0615	20.5347	20.2343
170123	21.4168	23.1697	23.5468	22.6616
170124	10.2089	11.1249	15.0596	11.8247
170126	12.1268	12.8096	13.5736	12.8129
170128	14.9919	14.8891	14.1676	14.6301
170131	13.0978	10.1000	*	11.3849
170133	17.1103	18.0243	15.7918	16.8958
170134	14.2252	14.1085	14.6799	14.3402
170137	17.4151	17.8290	19.3118	18.1884
170139	13.3896	14.1967	14.3001	13.9545
170142	17.3234	*	17.7134	17.5177
170143	15.8802	15.6509	16.0415	15.8575
170144	16.0860	19.0929	20.4392	18.4073
170145	16.7499	17.1837	19.0142	17.6442
170146	19.9725	20.9075	21.7919	20.9132
170147	16.2829	22.3017	17.8070	18.7377
170148	17.2497	16.9183	19.9697	17.9186
170150	15.4283	15.5651	15.9072	15.6422
170151	13.3674	13.8934	14.3668	13.8637
170152	13.6846	14.9139	15.6423	14.7323
170160	13.3087	13.7108	14.4732	13.8369
170164	15.5597	16.6542	17.4072	16.5279
170166	17.5681	27.5567	12.7507	18.3396
170171	13.8059	12.5200	13.1792	13.1761
170175	17.8802	19.0232	19.9694	18.9232
170176	20.3194	21.3400	23.0743	21.5773
170180	*	16.6921	8.6352	11.8552
170182	14.1971	22.2164	21.0546	19.7649
170183	19.0919	20.3505	19.5182	19.7036
170184	27.0152	*	*	27.0152
180001	19.5188	17.9906	20.4885	19.3882
180002	18.1348	17.9669	17.5798	17.8819
180004	15.9921	17.2581	17.7149	16.9654
180005	20.6280	21.1390	22.4634	21.3796
180006	11.2254	11.4398	10.3400	11.0123
180007	17.1997	17.6776	17.9491	17.6005
180009	20.8103	21.4730	21.0608	21.1163
180010	17.5452	19.1100	19.6311	18.7406
180011	16.9311	17.1050	19.0526	17.8588
180012	18.7350	18.7223	18.9481	18.8031
180013	17.4487	18.2354	19.6031	18.4802
180014	20.8033	21.4856	21.3242	21.1722
180016	18.8422	19.8892	21.1458	20.0187
180017	15.1699	15.4140	15.6583	15.4240
180018	18.9020	17.1692	15.4575	17.0460
180019	16.7648	17.3970	17.2177	17.1400
180020	17.7782	17.7288	18.0111	17.8397
180021	15.1627	15.4580	17.0618	15.8957

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
180023	15.2219	15.8803	17.4717	16.1885
180024	15.3299	16.1731	16.5040	15.9951
180025	17.1688	14.1841	15.4180	15.4826
180026	14.1571	14.6804	15.0118	14.6082
180027	14.8869	16.4116	17.5286	16.2087
180028	19.3519	19.5276	15.7005	18.0068
180029	18.0191	17.7729	17.7248	17.8352
180030	17.0234	17.3430	17.9543	17.4342
180031	13.7862	13.9844	13.1848	13.6178
180032	16.0941	16.8318	17.2784	16.7976
180033	13.7667	17.7344	15.4131	15.5472
180034	17.3158	15.3369	16.3991	16.3000
180035	19.4485	20.1305	21.3666	20.2870
180036	19.1922	19.8398	19.8830	19.6408
180037	18.8053	19.9737	21.2184	19.9797
180038	17.1643	17.7626	18.4077	17.7880
180040	19.4450	19.5337	20.6296	19.8636
180041	15.1703	15.0785	16.3699	15.5655
180042	16.2924	16.7691	17.1519	16.7450
180043	16.6077	16.8027	13.8503	15.6793
180044	17.8196	18.5571	19.4984	18.6534
180045	17.7272	17.7130	20.8455	18.9499
180046	17.9096	19.2523	21.2465	19.4702
180047	15.0354	16.2304	18.6938	16.6027
180048	19.5681	18.3442	17.7816	18.5208
180049	16.0799	16.4319	16.5459	16.3594
180050	18.4753	17.8540	17.1493	17.7884
180051	15.6796	16.3960	17.5441	16.5170
180053	14.6299	15.9284	15.8994	15.5002
180054	16.3875	19.4858	20.0946	18.5771
180055	14.6446	15.2663	15.8422	15.2446
180056	16.6240	17.0056	17.5728	17.0694
180058	14.3562	15.9685	14.5355	14.9226
180059	14.2605	13.3955	14.7032	14.1102
180060	7.2139	*	*	7.2139
180063	11.9120	13.1036	12.4448	12.4785
180064	14.4872	15.2424	15.5066	15.0871
180065	20.0286	12.0629	11.1934	13.8815
180066	18.5635	19.2981	19.7883	19.2237
180067	18.5288	20.6322	19.8756	19.6602
180069	17.2956	17.7911	16.2916	17.1149
180070	13.8370	13.1923	15.9362	14.2840
180072	17.8554	16.9021	17.2347	17.3229
180075	15.0701	*	*	15.0701
180078	19.1615	21.1170	21.7116	20.6787
180079	13.4072	15.1636	15.9048	14.8197
180080	15.8327	16.4989	16.6428	16.3363
180087	14.9660	14.9167	15.6089	15.1555
180088	22.5349	22.0374	22.4148	22.3261
180092	16.3099	18.2405	18.3597	17.6633
180093	16.8286	17.0132	17.9623	17.2606
180094	12.5074	13.5490	13.6233	13.2263
180095	13.3991	13.8021	13.9050	13.6989
180099	13.6988	13.3631	13.2991	13.4593
180101	19.5644	18.4883	*	18.9778
180102	17.8751	17.9618	18.5018	18.0941
180103	19.2182	19.8965	20.3774	19.8456
180104	18.8730	18.9281	19.4139	19.0718
180105	14.0811	15.2394	16.6997	15.2994
180106	13.6062	14.3505	15.2895	14.3903
180108	14.6222	14.8187	13.9862	14.4793
180115	17.1079	16.7003	16.9096	16.9026
180116	16.9389	18.0392	18.2848	17.7647

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
180117	18.3821	17.7857	23.0192	19.6584
180118	12.1533	15.8597	16.9250	14.8270
180120	17.8145	16.1591	15.3115	16.3371
180121	14.5134	15.0983	20.0494	16.3330
180122	16.9678	18.5094	18.1930	17.8754
180123	18.9995	21.0613	21.1067	20.4023
180124	18.4064	17.4994	18.7682	18.2003
180125	19.7341	19.6416	14.9314	17.5744
180126	12.3959	12.9228	14.3551	13.2733
180127	17.3452	19.2581	17.5540	18.0362
180128	17.0508	17.6385	18.2817	17.6802
180129	17.8600	16.8378	22.3536	18.8696
180130	19.0110	19.8192	20.6684	19.8450
180132	17.2657	17.7744	19.1884	18.0615
180133	22.2325	21.6794	21.7800	21.8995
180134	13.6287	13.1935	12.5041	13.1008
180136	17.7146	17.3542	*	17.5359
180138	18.6149	19.3692	19.9343	19.3216
180139	18.7679	18.7198	18.0041	18.4600
180140	20.3953	16.8152	15.2719	17.3915
180141	20.0075	20.9820	23.8930	21.4590
180142	*	*	20.7510	20.7510
190001	17.0159	17.6832	18.1514	17.6263
190002	18.8381	19.1924	19.8834	19.2931
190003	22.1543	19.7749	19.9121	20.4811
190004	17.5385	17.7710	18.3620	17.8959
190005	16.7149	17.2422	17.3078	17.0856
190006	17.7335	17.8036	17.5911	17.7112
190007	13.6014	13.8189	14.4720	13.9833
190008	16.8916	18.6664	19.2456	18.2327
190009	14.2085	15.3555	15.9731	15.1819
190010	17.0192	16.2805	16.5020	16.6088
190011	15.1715	15.9534	15.6351	15.5881
190013	16.5706	16.8181	15.5019	16.2739
190014	17.0170	17.0959	17.7761	17.3018
190015	18.1943	18.6266	18.9896	18.6153
190017	15.7894	16.2393	17.5381	16.5250
190018	16.9761	15.0668	11.1898	14.5841
190019	17.4006	18.5257	18.3788	18.1281
190020	17.3084	17.5256	17.6840	17.5059
190025	16.0738	18.6369	15.8910	16.9047
190026	17.2166	18.1622	18.5015	17.9532
190027	16.1856	17.0827	17.4761	16.9034
190029	17.1103	16.5239	19.1967	17.5497
190033	10.7448	*	*	10.7448
190034	16.5066	16.8503	18.0754	17.1513
190036	19.9456	20.1780	19.1695	19.7802
190037	12.0237	17.6945	19.9878	16.0686
190039	17.1687	19.4713	19.0376	18.5119
190040	20.3180	21.4634	21.7075	21.1804
190041	17.8975	17.6646	18.0991	17.8870
190043	12.5660	15.5580	15.5618	14.5094
190044	17.1984	17.2892	17.4471	17.3108
190045	21.6948	21.6107	21.2853	21.5139
190046	19.3538	19.7964	20.4273	19.8671
190048	16.3404	16.6683	16.8136	16.6153
190049	16.4250	17.2280	17.7417	17.1570
190050	15.3771	16.1980	16.2854	15.9545
190053	12.4980	13.2159	13.0080	12.9160
190054	16.4683	19.1738	18.9059	18.1924
190059	15.8443	15.6942	15.8373	15.7915
190060	18.3689	14.7186	17.5317	16.6606
190064	19.9047	20.4482	18.2466	19.4909

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
190065	19.3856	20.9927	18.4695	19.5739
190071	13.5908	14.4827	16.4138	14.8320
190077	12.8290	15.7805	16.5536	15.0793
190078	13.4990	14.8826	16.9383	14.8793
190079	17.2909	17.7120	17.9403	17.6368
190081	12.0190	15.3198	14.9707	14.2301
190083	16.1374	18.8895	18.4951	17.8399
190086	14.9295	15.8694	16.5074	15.7738
190088	19.6328	20.5531	19.9362	20.0391
190089	12.7879	13.0503	15.0395	13.5823
190090	16.5580	16.6664	*	16.6122
190092	18.0655	*	*	18.0655
190095	15.7316	16.2287	17.3258	16.3915
190098	19.2175	20.4897	21.0847	20.2301
190099	18.9255	19.9018	*	19.4679
190102	19.0477	20.0300	20.5106	19.8707
190103	15.5698	12.1389	14.4158	13.8580
190106	17.7468	18.5813	*	18.1836
190109	14.5288	15.5767	15.8187	15.3068
190110	12.9925	15.8052	15.7313	14.8387
190111	20.0376	19.7514	20.6508	20.1574
190112	19.2067	21.0232	22.0741	20.6951
190113	18.9922	12.5777	*	15.7380
190114	12.9083	12.6366	13.9209	13.1568
190115	20.4914	20.2473	22.3441	21.0026
190116	12.5881	15.5481	17.3757	15.1678
190118	12.9537	14.7876	16.3776	14.7222
190120	13.6938	13.9591	17.2309	14.9846
190122	14.8255	15.4793	15.3742	15.2287
190124	22.3825	20.6222	20.1206	20.9375
190125	18.6287	20.4517	19.8298	19.6458
190128	19.7127	20.4688	20.8770	20.3583
190130	12.4307	15.1467	14.0379	13.8956
190131	19.5984	20.7565	18.8958	19.7536
190133	13.4750	13.5383	15.1393	13.9917
190134	12.6774	12.1749	12.4507	12.4351
190135	21.3511	21.6875	21.1206	21.3903
190136	11.3250	12.4091	15.1662	13.0730
190138	22.7088	*	*	22.7088
190140	12.0285	14.2256	14.6829	13.6611
190142	14.9820	15.4861	16.2280	15.5517
190144	16.8360	16.2068	18.4405	17.1561
190145	13.9893	15.2345	16.2505	15.1638
190146	20.0941	21.2825	22.0000	21.1693
190147	14.3219	14.4345	14.7202	14.4910
190148	14.0180	16.6337	15.5338	15.4604
190149	15.1862	17.5997	16.4722	16.4169
190151	11.9190	14.7333	15.5210	14.0028
190152	20.3951	22.2070	22.0319	21.4716
190155	11.0800	*	*	11.0800
190156	12.4786	15.7478	16.0442	14.6766
190158	19.6164	20.4637	20.4078	20.1474
190160	18.4746	17.1003	18.4662	18.0078
190161	14.6295	15.5737	15.9280	15.3544
190162	19.5027	20.6143	20.1962	20.0440
190164	16.3328	15.1783	18.2379	16.4778
190167	16.2880	16.6681	17.7611	16.9143
190170	13.5772	14.1750	14.5222	14.0895
190173	19.6362	23.6398	22.5148	21.9224
190175	20.6908	19.3625	20.1330	20.0312
190176	18.8205	24.0574	22.0869	21.4121
190177	20.3177	18.6715	19.7794	19.5846
190178	10.4941	11.0657	12.0372	11.1714

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
190182	20.0267	20.2855	20.7102	20.3281
190183	16.1064	16.7671	16.0752	16.3134
190184	14.8645	17.2044	19.8436	17.2547
190185	19.3707	20.1444	20.3479	19.9607
190186	16.3586	18.7568	17.4078	17.5306
190189	26.5419	*	*	26.5419
190190	18.6656	17.4642	15.8985	17.1134
190191	18.1353	20.4975	19.6911	19.4475
190196	14.8699	17.9225	18.6138	17.2784
190197	17.9166	19.5569	20.2082	19.2721
190199	13.4222	16.0637	15.3522	14.6078
190200	19.4148	22.0391	21.6852	21.0397
190201	19.1432	18.7079	19.7539	19.2099
190202	17.8959	*	*	17.8959
190203	21.3096	21.7350	21.7931	21.5975
190204	21.2119	21.4624	20.7215	21.1251
190205	18.1007	19.6587	19.3737	19.0483
190206	20.0648	21.7012	21.3307	21.0222
190207	17.6712	20.5082	19.0961	19.1272
190208	14.6096	20.0065	16.9641	17.1855
190218	18.1627	19.7518	19.2992	19.0335
190223	19.2550	*	*	19.2550
190227	12.1086	*	*	12.1086
190231	16.8850	15.8287	17.7247	16.7665
190235	18.2702	*	*	18.2702
190236	22.1837	19.3395	21.1982	20.9440
190238	*	*	20.6799	20.6799
190239	*	*	19.7601	19.7601
190240	*	*	14.3579	14.3579
200001	17.4890	18.0527	18.1207	17.8991
200002	18.7745	19.3629	22.9761	20.4367
200003	16.7389	16.9566	18.1540	17.2860
200006	19.7984	17.6586	21.0922	19.4856
200007	17.8859	18.7992	18.0655	18.2525
200008	20.5020	21.7489	21.2206	21.1621
200009	20.6433	22.2280	21.3591	21.4199
200012	17.0130	18.3484	20.0235	18.4600
200013	16.4933	18.0566	18.2737	17.6653
200015	20.1117	*	*	20.1117
200016	17.6623	18.0866	17.4335	17.7276
200017	19.6462	17.2930	*	18.7598
200018	17.2422	18.5397	18.2644	17.9737
200019	18.6399	19.2348	20.1070	19.3592
200020	20.5967	22.4526	22.5506	21.8845
200021	19.4052	19.9133	20.7565	20.0011
200023	14.9164	16.1707	18.8427	16.3595
200024	18.6518	19.4329	21.0233	19.7086
200025	19.0659	20.2259	20.4823	19.9499
200026	17.2842	18.1194	17.8759	17.7682
200027	18.2775	18.5659	19.6658	18.8842
200028	16.9306	19.5708	19.9218	18.7752
200031	15.9043	16.2217	16.3382	16.1598
200032	17.9160	18.9315	19.6907	18.8137
200033	21.4031	21.8634	22.0783	21.7858
200034	19.2407	20.1519	20.4939	19.9679
200037	18.2419	18.6713	19.2304	18.7348
200038	19.2147	23.3851	21.9205	21.5084
200039	20.2901	19.8589	20.2311	20.1007
200040	19.2970	19.5503	19.0188	19.2835
200041	17.6559	19.3563	18.4593	18.4719
200043	16.5368	16.7224	18.3804	17.1882
200050	18.0805	20.1214	13.1684	16.5253
200051	19.5925	22.1525	22.0712	21.5149

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
200052	15.1216	17.2099	17.8551	16.7641
200055	17.1729	18.8422	18.6877	18.2119
200062	16.5139	17.2273	18.2221	17.3074
200063	19.6658	19.9331	25.6527	21.3771
200066	16.3431	17.0289	17.1538	16.8395
210001	18.7266	20.4841	18.6617	19.2372
210002	22.8448	19.9219	20.4315	21.0189
210003	25.3730	20.3446	26.0447	23.6583
210004	23.5884	24.2909	24.9760	24.2880
210005	19.6162	21.4929	21.3829	20.7876
210006	17.7721	18.9436	19.3682	18.7016
210007	21.5415	23.1007	23.8840	22.8043
210008	19.5006	21.1768	21.2895	20.6531
210009	21.8111	20.5447	20.7479	21.0282
210010	14.3783	18.7197	19.5908	17.3758
210011	21.2422	21.4862	21.4043	21.3727
210012	23.4317	20.7203	21.3977	21.7764
210013	18.8455	19.7288	19.4505	19.3405
210015	16.6898	16.1912	18.6087	17.1516
210016	22.1469	23.8739	26.5193	24.0991
210017	17.1747	18.8928	18.5079	18.1448
210018	21.4055	22.2135	22.8553	22.1574
210019	19.0899	19.3046	20.6025	19.6453
210022	21.8160	22.6389	24.3016	22.9230
210023	21.7988	23.1950	22.9989	22.6719
210024	19.5645	20.6011	21.1669	20.3654
210025	19.5704	19.5876	21.2769	20.0208
210026	11.6440	12.1348	13.3494	12.4124
210027	18.4862	17.6855	17.1060	17.7943
210028	18.8623	19.6408	19.4157	19.3091
210029	22.3876	21.2167	22.7191	22.0801
210030	21.0169	21.7403	20.9574	21.2261
210031	15.5873	16.2299	*	15.9014
210032	18.4983	17.7228	20.1955	18.7972
210033	19.9144	20.8053	23.7588	21.3886
210034	16.1216	15.7322	25.0849	18.5047
210035	20.6092	20.2731	20.8317	20.5720
210037	18.7361	18.3072	20.5528	19.2053
210038	23.2616	23.4971	24.9762	23.8679
210039	20.7291	19.9901	21.3559	20.7067
210040	25.0770	21.5014	23.4252	23.3184
210043	18.5891	19.6474	22.4000	20.0973
210044	22.2438	22.5781	23.0917	22.6329
210045	9.6862	11.6086	12.1467	11.1781
210048	22.3923	23.0537	24.6921	23.3434
210049	17.6697	19.0821	19.3022	18.6991
210051	20.7633	22.4335	23.6476	22.3235
210054	23.5122	22.3559	23.2730	23.0396
210055	20.1012	29.2539	26.5272	25.0062
210056	20.9445	19.2662	22.9654	21.0453
210057	22.5717	23.8289	26.0076	24.0668
210058	21.4976	22.0753	16.3191	20.0884
210059	23.1274	22.6766	25.6052	23.5899
210060	*	*	26.5846	26.5846
210061	20.0203	17.2240	16.1931	17.8181
220001	26.3207	21.9369	22.9064	22.9526
220002	22.5808	24.1285	24.7920	23.8005
220003	19.1383	16.9246	17.9319	17.9948
220004	20.0058	*	*	20.0058
220006	22.1228	22.3085	22.6469	22.3611
220008	21.8873	24.4691	22.0796	22.7689
220010	21.9226	21.8582	22.0067	21.9297
220011	28.5673	26.1827	29.5290	28.2047

* Wage data not available for the provider that year.
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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
220012	29.5051	32.0829	31.2303	30.9286
220015	21.7813	22.5773	23.1893	22.4843
220016	23.1440	23.3750	23.0951	23.2050
220017	25.2630	22.4605	24.9576	24.2129
220019	19.1264	19.5613	19.8551	19.5190
220020	19.9925	21.4152	22.2245	21.2040
220021	23.6313	*	*	23.6313
220023	18.7625	16.1885	*	18.0910
220024	21.5871	21.5363	21.9316	21.6947
220025	19.9398	20.7882	22.8593	21.1235
220028	22.0721	22.8036	21.0630	21.9530
220029	21.8711	23.1509	25.6560	23.4858
220030	14.5383	18.5441	18.7429	17.2580
220031	28.1584	30.2430	29.3091	29.1415
220033	20.4120	20.0695	20.2601	20.2365
220035	21.9974	21.6396	23.1892	22.2365
220036	24.1570	24.6470	24.4091	24.3977
220038	22.3494	22.6518	22.3162	22.4382
220041	23.1483	23.4720	27.5034	24.5999
220042	25.2852	25.0779	26.0473	25.4181
220046	22.4677	22.7068	23.3149	22.8459
220049	23.0283	26.0025	26.3191	25.1679
220050	20.8345	22.0144	22.5265	21.7871
220051	20.4765	21.1033	21.7357	21.0973
220052	23.1376	23.7650	23.5225	23.4708
220053	21.2679	19.1280	*	20.2813
220055	21.5706	21.3743	*	21.4727
220057	23.0010	25.3902	25.8064	24.6606
220058	20.1888	19.9369	26.8345	22.1915
220060	26.1753	28.0843	28.0794	27.4392
220062	20.0560	20.4685	20.2254	20.2505
220063	20.9547	20.3951	20.8079	20.7132
220064	22.1785	22.3260	22.7497	22.4060
220065	20.1974	20.1364	20.1424	20.1584
220066	20.4586	20.7826	21.7186	21.0071
220067	25.7414	26.4443	27.5405	26.5452
220068	6.4548	*	*	6.4548
220070	19.7678	19.7528	19.0333	19.5401
220071	24.6508	25.6184	26.8257	25.6808
220073	25.8680	25.6025	26.1328	25.8683
220074	24.0523	25.6390	24.8429	25.0647
220075	21.5418	22.8057	22.5329	22.2794
220076	24.7783	22.6668	23.2795	23.6106
220077	24.8019	25.2646	25.5336	25.1941
220079	21.0090	22.6256	17.9964	20.4339
220080	20.5007	21.5238	22.1971	21.3825
220081	25.3370	29.1726	29.6682	28.0686
220082	20.0175	21.6726	22.1453	21.2140
220083	23.0759	23.9156	22.5815	23.1732
220084	24.6624	23.6641	21.3072	23.1862
220086	30.4649	23.8705	27.6595	26.7829
220088	23.3783	22.9067	23.4258	23.2384
220089	21.7884	23.0965	25.4106	23.3099
220090	21.6353	22.0041	23.2456	22.2523
220092	17.0409	18.5239	24.2591	19.3548
220094	21.9853	*	*	21.9853
220095	21.4468	21.4831	21.7851	21.5735
220098	20.8596	21.5906	23.1547	21.8533
220100	25.3484	25.7077	27.5841	26.2007
220101	24.3260	25.9204	27.0711	25.7662
220104	27.5297	28.0021	28.7258	28.0695
220105	21.6873	21.4129	21.9185	21.6684
220106	24.5518	25.6577	25.9277	25.3659

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
220107	20.2719	*	*	20.2719
220108	22.6372	21.9115	23.4975	22.6709
220110	29.1927	28.7071	28.8697	28.9201
220111	23.0475	23.8066	24.7510	23.8707
220116	24.9744	26.1662	32.0049	27.4579
220118	30.5213	*	*	30.5213
220119	22.8586	23.3216	23.8785	23.3181
220123	27.3063	25.8994	32.4678	28.6276
220126	20.9557	22.5218	22.9620	22.1062
220128	20.5636	*	*	20.5636
220133	35.2747	25.4596	29.3911	30.0324
220135	25.0798	25.6522	26.6636	25.7967
220153	23.8981	22.9592	*	23.4152
220154	22.1261	22.4770	21.1563	22.0118
220163	27.3527	29.1143	29.6933	28.6971
220171	23.4340	24.5553	25.2585	24.4462
230001	19.2015	19.8020	20.0438	19.6841
230002	21.9058	22.7991	23.3790	22.7047
230003	19.6118	19.8420	21.2215	20.2501
230004	22.0310	23.1036	20.5005	21.8004
230005	19.4040	18.5644	17.0943	18.3438
230006	18.4681	19.1041	20.4978	19.3271
230007	19.4339	15.5538	*	18.1334
230012	18.6663	15.0803	*	16.5807
230013	20.6322	20.8018	22.2211	21.1847
230015	20.4264	20.1104	20.6464	20.3967
230017	20.3975	22.2822	22.4824	21.6902
230019	21.3222	22.2622	22.1491	21.9247
230020	21.3206	22.1280	22.1198	21.8771
230021	18.5670	18.9636	19.8256	19.1973
230022	19.7598	18.8006	21.9129	20.1618
230024	27.9551	23.7326	24.9664	25.4314
230027	18.0285	14.6950	19.6393	17.2624
230029	21.0636	19.4911	22.1092	20.9014
230030	17.7040	18.3916	18.6230	18.2489
230031	17.5352	19.3162	19.9465	18.8845
230032	20.6821	21.8845	24.8930	22.4347
230034	17.2302	19.0473	19.4366	18.6363
230035	17.5607	17.5109	17.7490	17.6051
230036	21.7565	23.2119	23.8398	22.9390
230037	19.0688	20.4747	23.2751	20.8659
230038	23.3876	23.5251	21.9692	22.9521
230040	20.3897	21.4393	20.7841	20.8605
230041	19.0278	20.3131	21.7364	20.3273
230042	19.4937	22.1043	21.0266	20.8816
230046	25.9482	25.5696	25.3206	25.6107
230047	20.6379	21.5381	22.4279	21.5449
230053	22.1781	25.4968	25.5139	24.3278
230054	19.5427	20.6963	20.8014	20.3482
230055	19.8381	20.7932	20.8908	20.4862
230056	16.4101	16.0766	18.9203	17.0117
230058	18.2349	20.4165	21.0303	19.9623
230059	19.5098	19.9240	20.7092	20.0517
230060	17.8716	19.8021	19.4211	19.0237
230062	16.2952	17.1540	18.8039	17.3634
230063	20.2211	20.4171	*	20.3143
230065	21.1507	22.3459	22.3216	22.0094
230066	21.5116	22.1768	23.0475	22.2618
230069	21.7909	23.2076	24.1210	23.0181
230070	20.0645	20.2505	21.5666	20.8098
230071	22.1556	22.9052	23.1337	22.7304
230072	20.4308	20.6944	20.4456	20.5245
230075	19.4316	20.0545	22.5866	20.6203

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
230076	23.8201	24.4547	24.7010	24.2886
230077	20.3937	21.0178	19.7982	20.3917
230078	16.2486	17.5577	17.9868	17.2435
230080	18.9084	19.7687	20.2104	19.6745
230081	17.9510	19.0345	19.0199	18.6644
230082	17.7417	18.2992	19.0419	18.3501
230085	17.5447	20.2096	23.4996	20.3924
230086	16.9754	18.9420	20.1857	18.6805
230087	15.7694	18.9034	19.9700	18.0112
230089	21.3914	23.9100	22.6994	22.6194
230092	18.9567	20.0145	20.8313	19.9501
230093	20.1928	20.4655	20.6425	20.4363
230095	16.7830	17.3313	17.6444	17.2565
230096	22.5613	22.8410	22.7785	22.7256
230097	20.0960	21.2854	21.1254	20.8481
230099	20.2529	21.1933	21.7513	21.0709
230100	13.1107	17.1336	17.3842	16.0282
230101	18.6098	20.0932	20.5315	19.7445
230103	19.6014	22.7696	11.3429	17.7532
230104	23.4703	23.1457	24.1238	23.5809
230105	20.8765	21.5210	22.6098	21.6727
230106	18.3508	20.7997	21.6825	20.2936
230107	14.6673	16.5966	17.1386	15.9949
230108	17.4231	18.8631	20.3437	18.8600
230110	17.8017	18.9825	19.7262	18.8384
230113	11.1676	14.9411	*	12.8926
230115	16.4728	18.4050	19.2636	18.0559
230116	16.3563	16.5419	14.5692	15.7763
230117	23.9389	25.9318	25.6797	25.1927
230118	21.7089	21.3028	20.6797	21.2068
230119	23.9568	21.1918	22.5415	22.5507
230120	19.6400	18.5264	20.3306	19.4421
230121	20.0786	20.3158	21.3342	20.5789
230122	18.0903	20.9078	*	19.5648
230124	18.8938	20.3608	18.6352	19.2618
230125	15.3497	*	*	15.3497
230128	23.5787	24.9081	24.0724	24.1436
230130	22.5204	23.5170	22.1775	22.7280
230132	26.1727	26.6386	26.2269	26.3491
230133	17.5688	17.6894	17.1058	17.4473
230134	15.3248	*	*	15.3248
230135	22.7401	22.5258	20.5637	22.0738
230137	18.3431	19.1813	*	18.7522
230141	23.0496	22.1299	22.4570	22.5592
230142	20.1242	22.2940	23.3483	21.7608
230143	16.4468	16.3043	16.7948	16.5112
230144	20.9906	22.1108	23.3502	22.1007
230145	16.5986	20.2542	19.2638	18.8354
230146	18.6293	20.5044	21.1818	20.1337
230147	20.5144	21.8496	23.2755	21.8616
230149	14.1740	20.7691	18.8005	17.7545
230151	20.8884	22.1713	23.1152	21.9998
230153	17.3280	19.5633	18.7403	18.5291
230154	14.5846	15.4456	15.4362	15.1635
230155	16.9857	17.2076	20.5409	18.1875
230156	23.6126	24.7587	25.5835	24.6629
230157	19.7197	20.3667	17.3571	19.2380
230159	18.8426	20.0749	*	19.3914
230162	17.7689	21.4636	21.7148	20.3064
230165	23.3147	23.0106	23.2019	23.1727
230167	20.3210	21.5048	22.1550	21.3066
230169	22.8606	23.0652	24.3780	23.4313
230171	14.9595	13.3863	17.1282	15.0778

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
230172	20.2191	20.6417	21.4675	20.7898
230174	20.8542	23.0272	22.7304	22.1820
230175	21.8097	16.8909	*	19.0428
230176	21.8618	22.7772	23.8883	22.8410
230178	16.0818	16.9156	17.3030	16.7485
230180	15.4837	15.8769	18.5744	16.6297
230184	17.2928	19.0604	19.7717	18.6605
230186	*	19.5337	16.4977	18.0186
230188	15.5563	15.7112	16.2975	15.8821
230189	15.9089	16.6838	17.9218	16.8493
230190	23.7134	26.8196	26.4687	25.7543
230191	17.1221	19.0013	18.4861	18.1647
230193	20.1805	19.7066	19.2961	19.7939
230195	22.3745	21.7775	22.5842	22.2594
230197	21.6184	24.0184	23.3951	22.9141
230199	18.4012	19.4451	20.6580	19.5586
230201	15.3206	17.2141	18.0787	16.9556
230204	22.9506	25.4181	23.4966	23.9387
230205	13.8861	14.3788	15.9314	14.6555
230207	20.3538	20.6375	21.2483	20.7256
230208	17.1501	16.0733	15.8925	16.3949
230211	17.5087	18.6744	21.8581	19.0214
230212	22.1370	23.3021	24.2611	23.2193
230213	15.3159	15.1908	15.5469	15.3407
230216	19.5921	20.3359	21.0710	20.3422
230217	20.9510	21.2707	22.2698	21.4978
230219	20.7018	19.1549	20.0442	19.9745
230221	21.5000	*	*	21.5000
230222	20.8430	22.1785	22.0823	21.7090
230223	21.4990	21.1528	22.2627	21.6325
230227	21.3801	23.7259	22.7599	22.5824
230230	22.5346	22.2385	22.3092	22.3585
230232	12.6373	*	*	12.6373
230235	15.9466	16.8684	17.7197	16.8275
230236	23.2178	24.3835	25.9676	24.5556
230239	19.2349	18.0942	17.8168	18.3625
230241	18.8451	19.1000	20.0497	19.3344
230244	21.0758	21.7413	22.2697	21.6892
230253	21.9497	20.5945	21.0433	21.1989
230254	21.2786	21.9402	22.6335	21.9383
230257	20.4721	19.6982	21.3695	20.4944
230259	21.1519	22.2393	22.3969	21.9147
230264	15.1818	17.1319	17.4864	16.5360
230269	22.8138	23.3105	24.0992	23.4229
230270	20.0803	22.6187	21.5711	21.3628
230273	23.4000	22.9199	22.8715	23.0744
230275	17.5975	17.7487	20.8985	18.2554
230276	18.5750	21.3722	25.8709	21.5415
230277	22.5012	23.1456	23.9771	23.2364
230278	16.6645	18.2110	*	17.3814
230279	16.0437	17.6973	17.8074	17.2147
230280	14.2249	15.6654	18.3497	15.8025
230283	*	27.9480	22.5082	24.9202
240001	22.8480	24.6207	25.6936	24.3586
240002	23.0240	22.7981	23.2225	23.0151
240004	23.9195	25.1908	23.8151	24.2981
240005	16.9775	17.9563	20.3193	18.3770
240006	27.1133	25.1602	23.0715	24.9568
240007	16.9802	17.7625	19.0850	17.9138
240008	21.8068	20.2158	23.3783	21.6628
240009	16.6910	16.8965	17.1187	16.9211
240010	23.6323	23.6477	25.4752	24.2587
240011	18.9559	20.5192	21.5875	20.3298

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
240013	18.9705	20.3282	21.7544	20.2656
240014	21.8560	23.0025	24.3446	23.0734
240016	19.8624	20.4017	22.2011	20.8274
240017	17.2325	18.3585	18.9272	18.1627
240018	19.0671	20.8501	18.4268	19.4219
240019	20.9869	22.1501	23.1477	22.1062
240020	19.5727	21.1937	20.8849	20.5389
240021	17.3968	18.7515	20.1457	18.6569
240022	19.1554	21.7889	21.3234	20.7594
240023	20.3923	21.5087	22.8224	21.4999
240025	17.2464	18.8345	20.0308	18.7384
240027	16.2531	19.1017	16.7758	17.3367
240028	19.3781	19.7918	25.1934	21.5071
240029	17.9880	21.1329	20.0164	19.6781
240030	18.4358	18.8547	20.1653	19.1669
240031	18.0652	18.1566	19.3983	18.5009
240036	20.3270	22.2460	22.1721	21.6421
240037	18.4564	19.2345	20.1195	19.3188
240038	26.3539	25.3061	24.3957	25.3169
240040	19.9022	20.4813	23.1352	21.0482
240041	19.2127	19.2864	21.8655	20.0389
240043	17.3064	17.7335	16.9859	17.3013
240044	18.9217	18.8411	20.3339	19.3394
240045	20.9873	21.1396	24.1557	22.0716
240047	21.8576	22.6152	23.8098	22.7467
240048	23.3110	*	*	23.3110
240049	22.1345	*	*	22.1345
240050	24.5027	25.2983	21.6499	22.6550
240051	18.2287	19.9195	22.5855	20.1307
240052	19.2190	20.7749	*	19.9948
240053	21.1987	22.9611	23.8858	22.7864
240056	22.2927	23.4226	23.7139	23.1375
240057	23.2377	24.2159	24.3404	23.9501
240058	14.9141	14.9697	18.1695	15.9021
240059	21.9575	23.6215	23.7808	23.1092
240061	25.5581	27.2603	25.9951	26.2655
240063	23.5426	23.7866	24.4031	23.9101
240064	20.7602	23.2860	22.6742	22.2043
240065	12.5547	12.7867	14.8734	13.4307
240066	22.0542	23.0698	24.1143	23.1023
240069	19.1834	19.8282	21.7991	20.2573
240071	19.1913	20.2101	21.1721	20.2070
240072	18.0015	21.1824	20.9529	20.0007
240073	15.6318	16.0840	17.3559	16.3592
240075	21.1934	21.2654	21.4157	21.2934
240076	21.0702	21.8795	22.3280	21.7859
240077	14.9493	15.3794	20.3445	16.8827
240078	22.7122	23.9150	25.1082	23.9382
240079	17.8206	18.4338	18.8345	18.3648
240080	23.7286	24.3399	25.5619	24.7160
240082	18.0272	18.3555	18.7995	18.3952
240083	19.2922	19.7637	21.0317	20.0094
240084	19.6078	19.4739	21.7421	20.2965
240085	18.0214	22.5736	20.9778	20.5540
240086	15.3302	16.9392	18.1401	16.9654
240087	17.0624	18.8352	21.3323	19.0315
240088	21.0202	21.6858	23.1056	21.8928
240089	18.4171	20.7239	21.1989	20.0227
240090	18.0490	19.2968	19.2166	18.8331
240093	18.6788	18.7092	20.2400	19.2268
240094	20.5705	20.9446	22.0247	21.2053
240096	18.3365	20.1644	21.0417	19.7961
240097	23.6230	24.2662	27.7781	25.0667

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
240098	20.6036	21.3467	24.2296	22.0643
240099	14.3759	14.4649	15.4964	14.7485
240100	19.1921	20.8302	18.9953	19.6501
240101	17.7478	19.2120	20.0872	18.9539
240102	15.5644	14.6067	16.3659	15.5008
240103	16.8805	19.1540	18.7510	18.2532
240104	24.0175	23.2178	23.5351	23.5902
240105	14.7904	14.3965	*	14.6094
240106	23.7818	23.5148	23.5005	23.6022
240107	19.0299	20.3983	20.9004	20.0558
240108	16.4605	15.3547	18.2427	16.5529
240109	13.1537	13.5537	16.3216	14.2359
240110	17.2834	19.4828	21.0675	19.2326
240111	17.0408	17.2100	17.8617	17.3567
240112	15.3246	15.8350	16.6242	15.9307
240114	15.4919	16.2505	17.3682	16.3794
240115	22.1575	23.7765	23.8675	23.3187
240116	15.1757	16.6731	18.3520	16.6014
240117	17.5676	18.0636	17.9941	17.8845
240119	22.4981	20.6126	21.8289	21.5894
240121	21.3747	23.4018	22.2266	22.3266
240122	18.0396	19.1811	21.2876	19.5090
240123	15.5968	16.5098	18.3941	16.7420
240124	19.0505	19.4400	20.4728	19.6473
240125	13.1505	12.3627	14.9708	13.5694
240127	14.7670	15.8966	17.9724	16.1476
240128	16.0759	17.2513	16.3608	16.5520
240129	15.4226	14.4212	16.5209	15.4258
240130	15.6477	14.9399	16.4271	15.6650
240132	24.4998	23.0669	23.1452	23.5239
240133	18.5216	19.2126	19.5294	19.1081
240135	13.6014	14.3069	15.7015	14.4270
240137	19.1770	20.3750	21.5073	20.3195
240138	13.7359	15.2062	16.7332	15.1922
240139	17.0163	20.8053	20.5496	19.6213
240141	21.9909	23.8066	23.1009	22.9648
240142	20.6139	25.2770	29.2238	24.5024
240143	14.2790	16.6172	*	15.4691
240144	15.8710	18.2604	21.4469	18.2664
240145	14.9997	17.2778	19.0689	17.4197
240146	16.7496	16.0652	16.5412	16.4544
240148	11.3388	18.8779	19.5204	16.6060
240150	12.8255	13.8786	20.8331	15.4453
240152	20.2020	21.1678	22.4744	21.2973
240153	15.6079	16.5412	19.3336	17.0363
240154	17.0625	17.5769	21.5052	18.6158
240155	20.4189	19.8762	20.9385	20.4180
240157	14.6914	17.4168	15.2821	15.8915
240160	16.6034	15.9492	15.9014	16.1454
240161	15.4160	15.7996	16.8809	15.9681
240162	19.0404	16.6292	19.1542	18.1964
240163	17.8714	18.8320	20.4760	18.9698
240166	16.3907	17.3233	19.4131	17.7688
240169	18.6155	16.6725	16.3958	17.2174
240170	17.6501	18.8762	20.3779	18.9004
240171	16.7237	17.2886	18.5172	17.5402
240172	16.0711	18.2852	20.8606	18.2323
240173	16.7411	17.2655	18.5190	17.5028
240179	16.6464	17.5116	20.4007	18.1225
240184	14.3996	15.3793	16.8917	15.4746
240187	17.5154	19.9230	21.2736	19.5789
240193	16.3004	17.8226	18.4664	17.4827
240196	23.2666	24.3472	25.3479	24.3358

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
240200	14.7295	14.3415	14.9076	14.6539
240207	23.3339	24.1127	25.2814	24.2879
240210	23.8391	24.2218	24.5664	24.2274
240211	20.5548	19.7399	30.6260	22.1746
250001	18.1407	18.4233	19.2756	18.6319
250002	15.6036	17.2501	18.6938	17.1218
250003	15.6560	17.6539	16.7570	16.6622
250004	17.1177	17.8868	18.3860	17.7913
250005	12.0032	12.5993	12.5834	12.3909
250006	15.7036	16.9048	17.5192	16.6995
250007	19.1555	19.2913	19.7562	19.3984
250008	13.3179	14.1760	15.8506	14.4224
250009	16.1847	18.5610	17.7283	17.5396
250010	13.3372	13.3905	14.6101	13.7324
250012	18.4756	14.1623	16.7579	16.4800
250015	11.0747	13.5274	11.7249	11.9737
250017	17.3006	17.9410	20.5976	18.5334
250018	13.4707	11.9311	13.1687	12.7895
250019	17.1501	16.7425	18.0956	17.3536
250020	14.0618	13.4476	16.2698	14.4562
250021	9.0772	9.4318	10.5844	9.6552
250023	13.5440	13.9116	12.3434	13.2963
250024	11.5940	12.7127	12.9899	12.4525
250025	17.8890	19.0390	20.3625	19.2022
250027	12.4241	14.9519	14.5445	13.9032
250029	14.8456	16.4834	16.0682	15.8412
250030	13.6277	17.3636	26.6173	19.2750
250031	18.7663	17.9715	18.3825	18.3676
250032	17.2983	17.1339	17.5957	17.3467
250033	15.7646	17.8257	15.0941	16.2509
250034	18.1269	16.6988	17.0399	17.2230
250035	17.4148	15.2353	16.8349	16.3942
250036	13.7928	15.8445	16.1913	15.3676
250037	10.3212	15.4325	12.7156	12.4979
250038	13.6207	16.8454	17.7019	16.0182
250039	16.5105	14.1556	15.1409	15.2552
250040	15.6367	17.3430	18.3364	17.1495
250042	16.4728	16.3867	17.6050	16.8239
250043	13.6492	16.0729	16.6500	15.4718
250044	16.7462	16.1218	16.7321	16.5323
250045	19.4788	22.0839	21.8988	21.2480
250047	12.0953	13.3706	14.7461	13.3242
250048	15.7073	16.8932	17.6649	16.7793
250049	10.7578	11.6715	12.1635	11.5642
250050	13.9220	14.3949	15.1159	14.4819
250051	9.6017	9.3464	10.4900	9.8032
250057	14.2863	15.9237	16.1838	15.4582
250058	15.4206	15.5327	15.7197	15.5555
250059	14.2997	16.2845	16.6494	15.7755
250060	7.9882	13.0301	16.1804	11.2768
250061	13.9655	11.0308	11.5108	11.9846
250063	14.9743	13.2540	13.3092	13.7869
250065	12.6803	12.8853	13.6904	13.0682
250066	14.3274	15.6760	16.1742	15.4025
250067	15.2871	16.4120	16.8522	16.2039
250068	11.4272	13.6768	13.4127	12.8087
250069	15.7653	17.8960	16.8980	16.8834
250071	11.2079	14.3781	12.3488	12.5425
250072	16.9263	18.2218	18.9487	18.0776
250076	*	10.5098	*	10.5098
250077	11.4135	12.2564	13.7404	12.5026
250078	15.4571	15.6336	15.9627	15.6858
250079	19.0587	16.2712	16.5835	17.1998

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
250081	16.1412	17.3325	19.0358	17.4600
250082	14.0249	16.0975	17.1427	15.7611
250083	9.2019	14.2634	16.6065	13.1746
250084	19.7390	17.0189	20.6429	19.0165
250085	13.8487	14.3797	15.4477	14.5716
250088	16.7514	17.8674	18.2736	17.6409
250089	13.0481	13.4238	14.3027	13.5884
250093	15.0918	15.2044	16.1506	15.4926
250094	17.8539	18.0852	18.5063	18.1422
250095	16.3574	17.0039	17.4217	16.9079
250096	17.0713	19.0688	19.0584	18.3546
250097	18.4099	16.9905	15.5741	16.9320
250098	14.3017	13.1341	*	13.6607
250099	14.4142	14.8528	15.1265	14.8018
250100	16.6033	17.1682	17.8688	17.2128
250101	16.3083	18.4685	17.7194	17.5079
250102	20.0190	23.9329	18.9348	20.8793
250104	17.5421	18.2502	18.7651	18.1832
250105	14.5986	14.5401	15.5133	14.8921
250107	13.6296	15.1496	15.0737	14.6455
250109	14.5496	22.1551	21.3867	18.8951
250112	14.2023	15.5610	16.3640	15.3179
250117	14.5171	16.1225	16.9787	15.9014
250119	12.7379	15.2199	16.1218	14.6728
250120	14.4126	15.3433	16.7182	15.4420
250122	17.7079	18.9417	19.2990	18.6619
250123	17.4068	18.8690	18.7863	18.3698
250124	12.6677	13.1823	13.2490	13.0310
250125	14.4867	20.8895	21.2660	18.4338
250126	14.7083	18.2355	21.9101	17.8900
250128	12.9968	14.0048	16.1418	14.4375
250131	10.2765	12.6056	12.4557	11.6657
250134	17.9755	17.0671	18.5142	17.8554
250136	18.0538	18.9689	21.3497	19.3579
250138	17.5999	18.4028	20.4550	18.6918
250141	17.1247	19.0113	19.6692	18.6505
250145	11.4047	10.2507	11.2120	10.9506
250146	13.2763	14.4924	14.7781	14.1955
250148	14.8234	18.0980	19.4233	17.4956
250149	12.9840	12.9569	15.2318	13.7102
250150	*	*	21.8599	21.8599
260001	17.5520	18.0971	19.7805	18.4701
260002	20.5878	22.1183	21.6400	21.4524
260003	14.3537	14.6553	15.4482	14.8108
260004	13.7528	13.0133	13.7035	13.4793
260005	19.7058	19.5554	23.9681	21.0036
260006	18.9408	19.7467	20.0994	19.6144
260008	16.2451	13.8495	16.8893	15.5719
260009	17.9364	18.5080	18.2863	18.2469
260011	18.3378	19.1027	19.5059	18.9819
260012	14.4594	14.3645	17.1662	15.3316
260013	15.5388	15.9884	16.1825	15.8932
260015	21.3327	16.5822	17.8817	18.4578
260017	15.8013	16.7916	14.7406	15.7355
260018	12.2293	12.0060	12.5301	12.2688
260019	23.6727	18.6113	*	20.6992
260020	21.8585	20.5142	20.2241	20.8205
260021	17.5694	22.1017	21.6237	20.1803
260022	19.3454	17.2462	17.7772	17.8898
260023	15.8235	16.4705	17.8649	16.6827
260024	13.4737	15.2356	15.7815	14.8371
260025	14.9377	15.4935	17.0965	15.8836
260027	21.0084	21.2977	21.3033	21.2013

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
260029	17.4744	19.7484	21.1858	19.3784
260030	11.2434	12.5118	11.9215	11.8847
260031	18.3039	19.4921	19.6943	19.1343
260032	20.8097	20.1988	19.6728	20.2222
260034	17.8986	17.4233	20.4902	18.5746
260035	12.5886	13.1065	13.0071	12.9052
260036	18.3128	16.7430	18.8104	17.9282
260039	14.1980	14.1866	14.6644	14.3527
260040	15.3853	17.3099	18.0140	16.9033
260042	17.4459	18.7567	18.7514	18.2697
260044	17.1177	15.9927	15.9206	16.3491
260047	17.2768	19.0112	19.2247	18.5386
260048	21.4309	20.0885	21.0602	20.8622
260050	18.7366	15.6908	16.8520	17.0991
260052	17.7502	18.0553	18.0914	17.9657
260053	12.0098	15.2236	16.5166	14.4005
260054	17.3708	20.0199	19.9510	19.1024
260055	13.7961	12.0118	15.4214	13.6790
260057	15.3276	17.4636	19.7144	17.7259
260059	15.7887	16.1000	17.0546	16.3478
260061	15.0099	14.7175	15.7112	15.1405
260062	20.2655	20.1477	21.3138	20.5946
260063	16.8474	18.2309	18.6551	17.9110
260064	16.5033	16.5934	17.8033	16.9429
260065	18.4654	19.4382	20.0975	19.3238
260066	14.4163	14.9640	15.3460	14.8934
260067	12.1588	14.2249	15.1837	13.8617
260068	19.8261	20.2418	19.4240	19.8242
260070	21.6873	*	13.9510	17.3672
260073	13.0075	14.2550	15.9182	14.4333
260074	15.4480	19.0350	19.8915	18.1123
260077	18.2594	18.6473	19.4482	18.8035
260078	15.4754	15.6381	14.9463	15.3700
260079	14.8281	14.2985	16.1453	15.0169
260080	12.5631	13.5384	14.6832	13.5392
260081	18.9629	21.0151	20.3053	20.0653
260082	15.7880	15.9407	15.9858	15.9090
260085	19.5153	20.4669	20.5247	20.1531
260086	14.8730	14.3164	15.2927	14.8291
260091	19.6081	19.9987	21.4056	20.5321
260094	15.8705	18.0085	18.5395	17.5281
260095	19.7672	19.6944	20.3468	19.9375
260096	21.7176	23.0282	22.5972	22.4661
260097	15.7899	16.5582	19.0632	17.1704
260100	15.7324	15.7047	16.6523	16.0345
260102	16.3653	20.1264	20.6361	18.8983
260103	17.3541	18.5957	19.7146	18.4987
260104	19.1158	21.0138	20.3176	20.0928
260105	20.8006	24.7223	24.8181	23.3052
260107	18.4618	19.8422	19.6490	19.2823
260108	19.2422	19.4609	20.0034	19.5906
260109	13.4400	13.9129	14.8181	14.0725
260110	16.9952	17.8375	18.3227	17.7209
260113	14.8968	14.6756	16.2223	15.2316
260115	17.8971	19.2259	17.4698	18.2033
260116	14.5715	16.2774	14.9812	15.2548
260119	16.2000	16.8836	17.2942	16.7641
260120	17.1269	16.3755	16.4904	16.6414
260122	14.5390	14.9697	16.0931	15.2238
260123	13.9960	14.6444	14.6822	14.4496
260127	15.9481	18.3572	18.4026	17.5109
260128	11.2705	13.0481	12.6414	12.2813
260129	14.6353	*	*	14.6353

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
260131	19.7491	17.7686	18.4154	18.5978
260134	16.5834	16.2832	17.5127	16.7877
260137	15.2169	17.9531	19.4697	17.5188
260138	21.3885	22.6491	22.1044	22.0654
260141	17.9598	19.1580	19.1893	18.7555
260142	16.0299	17.1248	17.3084	16.7937
260143	11.9389	12.7867	13.9040	12.7859
260147	13.6568	14.0778	14.7769	14.1672
260148	10.3383	11.8674	11.3524	11.2072
260158	12.4020	12.3005	12.7699	12.4966
260159	18.2232	20.3177	19.7951	19.3893
260160	16.1922	15.8394	16.5792	16.2009
260162	20.7103	19.5655	21.4099	20.5728
260163	14.8051	16.4245	15.8593	15.6940
260164	14.3089	14.9372	15.1211	14.8191
260166	19.5343	20.1025	20.3449	20.0093
260172	12.4851	15.4163	16.0772	14.6285
260173	11.9777	12.8523	14.2090	13.1471
260175	16.2940	16.9023	17.5625	16.9246
260176	19.5449	26.8712	21.6044	22.7500
260177	20.7457	21.2578	21.9014	21.3180
260178	21.4080	19.6638	20.2796	20.4480
260179	20.7397	21.4906	22.7185	21.6624
260180	18.5398	19.5819	18.9881	19.0361
260183	20.1940	20.0712	21.3175	20.5306
260186	18.0588	19.3238	19.6026	19.0698
260188	18.5772	20.6388	21.6920	20.2650
260189	10.7518	11.3004	16.4233	12.7425
260190	18.1639	18.5168	19.4910	18.7481
260191	19.3386	17.9812	18.1604	18.4767
260193	20.5055	21.1588	20.2577	20.6284
260195	15.9518	17.7237	19.7068	17.8042
260197	16.4605	19.2840	20.5453	18.3884
260198	17.6381	11.9751	19.7552	15.6949
260200	18.8755	20.5339	20.6888	20.0233
260205	*	17.6210	*	17.6210
270002	17.1866	28.9959	19.2387	20.5385
270003	22.1299	22.0995	22.5019	22.2424
270004	21.3442	19.6292	19.4834	20.1660
270006	16.1872	16.0238	17.0715	16.3653
270007	13.1679	11.3143	13.8824	12.6774
270009	17.7016	17.2292	20.4393	18.3783
270011	19.8229	20.2669	21.1653	20.3748
270012	22.8770	19.7346	19.7878	20.8557
270013	20.4012	*	*	20.4012
270014	18.5595	19.0872	19.9219	19.1986
270016	19.7675	19.6717	18.6149	19.4350
270017	19.5798	21.0800	20.0152	20.2382
270019	12.7812	18.1099	15.4128	15.4635
270021	16.6541	17.1787	16.9457	16.9258
270023	20.3641	22.2639	22.7181	21.7139
270026	15.6381	17.5102	18.0568	17.0775
270027	9.7758	13.1392	17.2091	12.8885
270028	17.2132	21.1492	19.1177	19.1160
270029	17.8852	16.5666	17.3710	17.2639
270032	17.0285	17.7393	16.0946	16.9320
270033	16.4554	16.9602	15.3447	16.2871
270035	17.6482	16.8295	16.4302	16.9974
270036	14.0815	14.2537	16.8552	14.8821
270039	15.3501	15.9368	19.6796	16.7774
270040	19.1901	18.8145	20.1242	19.3585
270041	16.7791	19.0327	25.8153	19.7981
270044	13.4559	16.7710	17.6489	15.9061

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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
270046	17.1048	*	*	17.1048
270048	15.8403	17.0154	18.0666	16.8972
270049	21.1670	22.2444	22.9547	22.1282
270050	18.0448	16.7110	19.9356	18.1546
270051	18.9468	20.2735	20.1950	19.8100
270052	14.8042	14.4773	11.6737	13.7344
270057	20.0080	21.1317	20.6714	20.6119
270058	14.0669	14.7481	16.1412	14.9510
270059	15.5957	14.7530	19.1808	16.3576
270060	14.0212	15.2727	20.4148	16.5316
270063	14.2287	12.6108	15.1049	13.8837
270073	15.5281	14.4569	16.1937	15.3359
270079	15.0277	15.6873	16.7048	15.7603
270080	14.0437	16.3171	15.0705	15.0926
270081	15.5207	15.6262	16.7389	15.9424
270082	16.1280	17.3443	23.1245	18.7794
270083	20.8231	18.4432	17.8554	18.9597
270084	16.2075	16.6243	16.2958	16.3734
280001	17.8928	17.3541	18.1831	17.7825
280003	21.9957	22.3179	23.0213	22.4564
280005	18.7477	19.2405	23.6949	20.6104
280009	18.7541	19.8145	20.9643	19.8453
280010	16.5417	17.4859	20.0462	17.5272
280011	13.9627	15.8573	15.9614	15.3328
280012	16.4079	*	*	16.4079
280013	22.1767	22.8063	22.3488	22.4214
280014	15.2414	15.9596	16.8368	15.9667
280015	14.6353	17.0281	16.6939	16.1405
280017	14.1897	14.2059	13.9939	14.1278
280018	14.8492	15.1328	15.4496	15.1512
280020	19.3963	19.9667	21.0924	20.2072
280021	16.6949	17.1048	17.6345	17.1389
280022	15.7059	16.7179	16.8184	16.3693
280023	21.2387	25.8494	22.3433	23.0540
280024	13.9115	14.2186	15.3050	14.4398
280025	14.2701	15.5850	21.4764	16.6875
280026	16.0599	16.6861	16.5851	16.4520
280028	15.8871	17.3176	18.0793	17.1201
280029	19.0519	23.1292	24.4359	21.9196
280030	28.7091	24.5366	24.1113	25.6720
280031	13.2242	13.5654	9.6321	12.1542
280032	19.3884	18.8964	19.1191	19.1301
280033	14.9334	15.7583	17.4745	16.1329
280034	15.2821	*	*	15.2821
280035	15.3304	15.9170	16.6872	15.8969
280037	16.1684	16.7952	17.1064	16.6926
280038	16.4685	17.0878	18.2503	17.2635
280039	15.1916	16.0442	16.1587	15.8239
280040	18.9717	19.5333	20.7630	19.8033
280041	13.3901	16.4083	16.5503	15.4920
280042	15.3029	16.1191	16.6239	16.0122
280043	15.7858	16.6570	17.5937	16.7160
280045	14.2741	16.9048	15.7630	15.6286
280046	13.7155	17.9221	17.3214	16.1724
280047	18.3743	18.3407	16.6409	17.7457
280048	14.0702	15.8723	15.8100	15.1939
280049	15.6343	18.3605	18.4365	17.4677
280050	15.3413	16.6432	19.9901	17.5838
280051	15.8504	15.6336	17.1942	16.1502
280052	13.6489	14.0819	14.1201	13.9629
280054	17.5819	18.7992	18.7575	18.3765
280055	12.9933	13.5667	13.8129	13.4587
280056	14.0151	12.6475	15.6135	14.0018

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
280057	15.7623	18.0454	20.0686	17.7576
280058	17.8798	19.6752	21.4868	19.6876
280060	28.6047	19.7527	20.7022	22.2434
280061	17.9511	17.1629	18.6370	17.9240
280062	13.6738	14.4896	15.6018	14.6170
280064	15.5092	16.2977	16.8330	16.2046
280065	18.5327	19.2932	20.6502	19.5213
280066	11.6416	11.6621	11.7207	11.6766
280068	10.1327	9.4943	10.5987	10.0463
280070	13.7353	17.7400	22.6201	17.5276
280073	17.0583	17.4244	17.7698	17.4266
280074	15.2182	16.4310	16.7879	16.0977
280075	13.7875	15.5327	13.2230	14.1041
280076	13.9203	14.8469	16.7488	15.0947
280077	19.0145	19.2068	20.0148	19.4096
280079	9.9132	10.4540	16.6117	11.4307
280080	14.3528	15.3308	16.9487	15.6285
280081	20.9196	21.0771	20.1127	20.6778
280082	13.1250	14.3399	14.6173	14.0723
280083	17.5544	18.2992	21.5336	19.2134
280084	11.6868	12.5836	13.6536	12.6157
280085	21.5793	20.4302	20.4825	20.9817
280088	22.1147	20.2961	*	21.2560
280089	17.4696	18.1668	18.9567	18.1923
280090	14.7191	14.1362	15.1274	14.6962
280091	15.2184	15.8436	16.1866	15.7538
280092	14.1998	14.1945	14.7912	14.4303
280094	15.8843	17.6873	16.3474	16.6450
280097	14.2990	14.1734	13.8223	14.0824
280098	10.1686	13.0029	12.5875	12.0141
280101	17.4168	13.5261	16.9973	15.7528
280102	12.9367	14.0102	*	13.4735
280104	13.3842	13.2819	16.1207	14.1161
280105	18.7851	18.6575	21.0735	19.5325
280106	15.5396	16.1247	16.0679	15.9189
280107	13.4553	13.3311	14.4679	13.7065
280108	17.2185	17.5625	17.1961	17.3277
280109	11.0622	12.6803	12.4408	12.0678
280110	12.2950	12.7546	14.2136	13.0914
280111	23.0856	21.8773	19.6283	21.4131
280114	13.5580	15.7160	17.3076	15.4628
280115	16.4282	16.7041	18.1480	17.1049
280117	16.8216	17.7276	18.8279	17.8057
280118	16.9228	16.8687	18.6524	17.4822
280123	20.7732	14.0637	11.8582	15.0281
280125	*	16.1332	16.3944	16.2644
290001	22.4188	22.8226	22.4085	22.5500
290002	20.9442	17.2554	16.5419	18.3712
290003	25.0066	22.8840	23.7504	23.8240
290005	17.8609	19.4888	21.9814	19.6686
290006	19.8815	21.8070	22.4063	21.4371
290007	29.6864	29.7706	30.9075	30.1389
290008	20.2506	20.6190	24.1255	21.5150
290009	22.7399	23.3620	23.8871	23.3177
290010	14.4800	15.6423	16.4476	15.5219
290011	16.4419	20.1564	21.1234	19.0261
290012	21.5139	21.8275	25.0430	22.8581
290013	17.0883	18.2713	15.7932	17.0224
290014	18.3755	18.9743	18.7829	18.7144
290015	17.8303	22.3487	19.4504	19.7229
290016	12.7869	14.3542	23.8656	16.2244
290019	20.9336	21.2509	22.2045	21.4895
290020	26.1502	20.8733	21.2380	22.7207

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
290021	21.1250	21.5806	22.8732	21.8512
290022	24.0856	24.5468	25.4709	24.7290
290027	16.4289	16.7786	13.4076	15.4211
290032	22.7882	22.8447	23.4661	23.0210
290036	18.6112	*	12.9074	15.9259
290038	23.1402	20.6753	27.7030	22.6435
290039	25.8004	25.3864	24.6317	25.1994
290041	*	*	26.1003	26.1003
290042	*	*	18.7527	18.7527
290043	*	*	27.9053	27.9053
300001	21.4192	22.0909	23.8567	22.4761
300003	23.3777	22.9111	24.1297	23.4634
300005	19.9876	20.7545	22.2858	20.9804
300006	18.9331	23.7793	18.9745	20.5179
300007	19.3447	20.2372	20.2433	19.9403
300008	16.4649	20.7702	19.6149	18.9666
300009	20.0057	18.0602	20.0938	19.3221
300010	19.3833	19.3940	20.2130	19.6671
300011	21.2429	22.4325	23.0279	22.1850
300012	23.8859	24.5673	24.5672	24.3274
300013	18.9664	19.1247	20.1669	19.4250
300014	19.7969	20.3292	20.1774	20.0987
300015	19.9308	20.4916	19.6627	20.0406
300016	18.5037	21.8659	17.8148	19.4173
300017	22.3408	21.6563	22.7231	22.2428
300018	20.8947	21.2381	21.6385	21.2565
300019	20.6090	20.9753	19.6728	20.4155
300020	21.9725	21.9165	22.6627	22.2032
300021	17.3477	18.6211	19.3101	18.4253
300022	17.1864	18.3507	19.1875	18.2148
300023	20.3909	22.1210	22.1608	21.5715
300024	17.9460	19.9116	21.5842	19.6334
300028	18.0515	17.4075	19.9359	18.5255
300029	20.8961	22.5748	22.5952	22.0043
300033	19.8506	17.1869	17.1632	17.9333
300034	23.5215	25.5182	24.3286	24.4526
310001	27.5967	28.1329	25.3674	26.9474
310002	27.8735	28.3434	28.9800	28.3940
310003	27.4152	29.1096	27.2582	27.9096
310005	23.0493	22.1146	21.7223	22.2720
310006	21.5557	21.5957	22.0894	21.7417
310008	24.9483	23.5084	23.6523	24.0400
310009	23.1906	23.6371	21.1082	22.6736
310010	21.1064	22.5682	21.7892	21.7942
310011	23.4038	23.1977	24.2885	23.6223
310012	26.3249	26.5242	26.5603	26.4724
310013	22.1062	21.2251	22.0056	21.7900
310014	28.6964	27.4614	23.1544	26.3494
310015	26.7584	27.4331	27.5468	27.2399
310016	26.0518	24.3838	23.8492	24.7461
310017	26.0703	25.7902	24.5976	25.5018
310018	24.5312	22.8428	22.4779	23.3087
310019	23.0888	24.0542	24.9914	24.0619
310020	19.2663	24.1848	24.4152	22.3484
310021	22.6456	23.9369	24.5562	23.6719
310022	20.7276	21.2706	20.8258	20.9386
310024	22.7831	24.2353	24.9521	23.9428
310025	22.8129	24.3513	24.1812	23.7695
310026	23.8726	23.5491	22.1997	23.2228
310027	21.7666	21.8846	22.5696	22.0722
310028	23.5188	23.4577	23.9428	23.6444
310029	23.3801	22.6629	23.5968	23.2088
310031	25.1780	26.1567	26.8214	26.0435

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
310032	23.3017	24.3528	24.4098	24.0274
310034	21.6851	23.2729	23.9672	22.9482
310036	19.8178	20.1905	24.0906	21.3182
310037	27.4447	27.7823	29.3440	28.1550
310038	25.3832	26.7209	30.4319	27.5814
310039	22.0259	22.1754	22.7317	22.2988
310040	23.9864	26.1492	24.5150	24.8208
310041	23.7829	24.8960	23.5559	24.0709
310042	24.3292	23.2472	*	23.7901
310043	22.0887	21.9022	21.6128	21.8925
310044	20.4309	21.6677	23.1076	21.6842
310045	28.1570	28.4854	28.2393	28.2925
310047	24.5225	25.1101	26.1921	25.2615
310048	23.3295	23.6118	25.2088	24.0558
310049	24.7617	24.8299	26.1668	25.1997
310050	22.5877	25.1752	24.7988	24.2032
310051	25.2762	27.1265	26.9716	26.4268
310052	22.5753	22.9326	23.0520	22.8616
310054	24.7413	26.1726	27.2074	25.9539
310057	20.4484	21.1686	22.2572	21.2802
310058	26.2243	26.5308	26.3765	26.3747
310060	19.1119	19.1992	20.3713	19.5633
310061	20.8023	23.2646	33.9582	25.0082
310062	19.2729	22.9073	*	21.3672
310063	21.8540	21.9045	21.9181	21.8914
310064	24.2115	24.8567	25.1096	24.7198
310067	22.2740	25.0888	23.9278	23.7333
310069	24.1662	23.7531	24.2916	24.0734
310070	25.0448	26.0903	28.4556	26.4357
310072	22.2231	21.7605	22.5611	22.1704
310073	25.6299	28.5149	26.6390	26.9057
310074	24.4638	23.8340	23.6327	23.9943
310075	26.4606	23.3266	23.5841	24.4497
310076	28.8981	30.0797	33.7139	30.9519
310077	25.0569	25.2500	26.0801	25.4318
310078	23.4788	23.8841	24.0587	23.7967
310081	23.8898	22.0762	22.4086	22.8084
310083	23.6761	23.8852	24.8204	24.1353
310084	24.0915	26.6753	24.6049	25.1157
310086	21.4350	22.1674	22.7566	22.1186
310087	20.8875	20.7243	21.1297	20.9153
310088	22.3419	22.3160	23.1722	22.6064
310090	24.2426	23.8284	24.7947	24.2732
310091	22.0103	22.7978	23.2969	22.6743
310092	22.3446	20.5165	20.1062	20.9829
310093	21.2302	22.4291	23.7251	22.4166
310096	26.3041	25.1572	24.5759	25.3591
310105	24.4851	25.5891	26.9400	25.6544
310108	22.8801	22.4756	25.2476	23.5055
310110	20.1400	21.8341	23.2594	21.7903
310111	21.7218	21.1066	22.1022	21.6426
310112	22.5213	23.6701	24.7914	23.6656
310113	22.9536	23.6841	23.1961	23.2803
310115	20.0667	21.7320	21.3837	21.0468
310116	25.2429	22.9812	23.4566	23.8506
310118	24.5443	26.4625	26.5492	25.7555
310119	29.4809	33.6686	32.7858	31.9394
310120	21.6852	23.9681	23.3200	22.9127
310121	18.7365	*	*	18.7365
320001	17.8522	19.1150	20.6225	19.1818
320002	22.4623	22.6175	23.0983	22.7062
320003	15.3484	15.9504	13.9079	15.0840
320004	17.2353	18.5824	19.6642	18.5890

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
320005	19.8698	21.6103	21.0411	20.8577
320006	18.6472	18.9019	20.3863	19.2674
320009	17.6400	18.2883	19.3500	18.4218
320011	16.5481	20.0601	18.4503	18.4082
320012	15.9972	16.4355	16.7110	16.3828
320013	23.8390	22.9573	27.8924	25.0936
320014	15.9666	16.3598	16.8412	16.4003
320016	18.9296	20.5398	18.7247	19.3888
320017	18.1545	18.6388	19.4498	18.7392
320018	18.1944	18.8479	19.2336	18.7690
320019	19.2600	24.4707	26.9637	23.5577
320021	17.1647	17.8705	18.6167	17.8360
320022	15.8391	16.1777	17.1375	16.3840
320023	16.4170	18.0548	22.5706	18.5691
320030	16.5266	16.5495	18.6943	17.2018
320031	13.9914	19.6768	25.1715	19.2605
320032	18.7536	18.8097	21.1505	19.5091
320033	20.3137	25.0777	21.0621	21.9427
320035	25.7392	21.5186	15.0612	19.2882
320037	17.0846	17.0305	19.8700	17.9947
320038	16.2896	16.8117	22.2664	18.6619
320046	19.0033	18.3190	25.1691	21.0078
320048	19.1705	19.9642	16.8769	18.5918
320063	19.8320	18.3237	17.3297	18.4052
320065	16.1046	16.7933	18.6525	17.1721
320067	57.4818	33.8654	15.3228	25.9798
320068	18.1809	17.4785	18.4868	18.1081
320069	11.3058	13.0094	14.4212	12.8497
320074	18.6545	19.3406	20.2290	19.3600
320079	17.0696	18.2828	19.5946	18.2729
330001	25.2067	26.5533	27.3996	26.4208
330002	26.3926	26.5370	26.9827	26.6287
330003	18.0549	19.4102	18.8260	18.7489
330004	19.9573	22.5298	20.9501	21.1368
330005	24.2795	24.8338	20.9401	22.5763
330006	25.9186	25.0576	25.8006	25.5856
330007	18.7956	18.9024	19.3974	18.8931
330008	18.0684	19.0045	18.5531	18.5296
330009	30.4220	30.6918	31.3435	30.8056
330010	14.7382	17.4512	16.5924	16.1266
330011	18.0419	18.2986	18.6748	18.3483
330012	31.5135	32.7624	*	32.1317
330013	19.9929	19.0856	19.7303	19.6038
330014	27.5704	32.3370	36.6670	32.2107
330016	17.4069	16.9717	16.8016	17.0572
330019	32.4515	35.9822	32.8743	33.7601
330020	14.5488	15.5527	15.1142	15.0641
330023	24.2708	24.4006	25.6145	24.7662
330024	33.6175	34.1682	37.3316	34.9189
330025	16.0290	16.2033	16.8687	16.3599
330027	32.4959	33.4738	35.5255	33.7629
330028	27.0752	28.2089	29.5294	28.2349
330029	16.5552	18.1567	17.0016	17.2536
330030	15.0551	17.4977	19.1085	16.8779
330033	16.7497	18.5353	17.0721	17.4766
330034	30.7840	31.3997	27.7738	30.5701
330036	24.3239	23.9874	25.2820	24.5370
330037	16.0026	16.1140	16.4866	16.2081
330038	16.0153	16.2549	17.3429	16.5336
330039	12.4666	*	*	12.4666
330041	30.4192	24.5215	31.4871	28.4761
330043	27.6286	28.7467	27.4661	27.9537
330044	18.6969	20.0238	19.5219	19.4106

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
330045	27.1759	28.0758	27.9919	27.7401
330046	31.9802	32.4189	35.2703	33.1562
330047	17.6895	18.1815	18.5536	18.1416
330048	17.6239	17.8787	19.1093	18.1878
330049	19.3136	19.4993	20.5731	19.7930
330053	15.6659	17.4430	17.8082	16.9823
330055	30.7330	36.1109	28.8026	31.5674
330056	30.2206	30.4525	30.0945	30.2540
330057	18.6891	18.7478	19.0732	18.8421
330058	16.9805	17.0014	17.7672	17.2379
330059	32.2285	34.1705	34.2426	33.4744
330061	25.0674	25.7331	25.4082	25.4024
330062	15.2819	17.6067	18.1318	16.9856
330064	32.8724	33.1269	33.6447	33.2084
330065	18.3686	19.8940	19.9327	19.3474
330066	19.9455	19.5611	19.9424	19.8214
330067	21.2872	20.9443	22.1065	21.4528
330072	29.3096	30.8019	30.4171	30.1659
330073	15.8849	16.2898	16.4518	16.2013
330074	18.1636	18.0005	17.7308	17.9678
330075	17.4266	17.2298	17.6385	17.4324
330078	17.4863	16.7949	19.0779	17.7511
330079	16.7608	17.4555	18.7622	17.6535
330080	26.8766	29.2686	21.2449	25.8366
330084	23.0327	18.0435	19.2211	19.8357
330085	18.7835	20.2926	20.4054	19.8243
330086	30.6954	31.2980	23.6496	28.6407
330088	25.6160	25.6626	25.7940	25.6905
330090	18.6833	19.3954	19.4896	19.1855
330091	18.5334	19.0953	19.7776	19.1249
330092	12.6540	14.0671	13.3723	13.3059
330094	17.7196	17.5585	17.8413	17.7095
330095	18.5502	20.1073	21.1096	19.8197
330096	16.5963	17.9641	18.5149	17.6975
330097	16.9626	16.2169	16.4433	16.5145
330100	28.1060	27.0661	29.0916	28.0415
330101	31.3075	32.4105	30.3486	31.0539
330102	17.5230	17.5755	19.0058	18.0012
330103	16.5212	15.7197	16.8110	16.3435
330104	28.7669	31.6471	31.2074	30.5068
330106	35.8740	40.2686	35.0511	36.9438
330107	28.0780	28.5580	27.7797	28.1411
330108	17.0846	17.3605	17.7326	17.3908
330111	15.2047	19.5314	15.9321	16.7001
330114	18.2390	17.3522	17.0581	17.5626
330115	16.5581	17.4430	17.1354	17.0407
330116	24.2266	24.4622	14.9610	20.6732
330118	20.7550	20.6936	21.8568	21.0906
330119	34.7478	34.8385	33.3533	34.3131
330121	15.8468	16.1052	16.3385	16.0964
330122	21.2021	20.8204	20.2417	20.7389
330125	19.7456	19.8494	18.7943	19.4752
330126	22.6990	23.7938	23.8190	23.4522
330127	29.3317	31.9046	29.0166	30.1127
330128	27.8693	29.0222	26.1374	27.7856
330132	14.7006	15.7633	14.3673	14.9673
330133	32.3812	37.2494	35.3576	34.8196
330135	18.3346	18.7120	22.2670	19.6717
330136	17.6041	18.2422	18.7546	18.1908
330140	19.5016	19.1438	18.5579	19.0661
330141	25.1371	26.4956	26.7096	26.0966
330144	15.5068	14.0566	14.5344	14.7317
330148	15.0400	16.8151	16.2552	16.0122

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
330151	13.9700	16.0714	15.8490	15.2603
330152	29.4818	30.5409	31.2106	30.3169
330153	17.4996	18.9689	17.7451	18.0540
330157	20.8239	22.0792	22.3804	21.7687
330158	26.0476	25.7569	27.1228	26.3184
330159	18.0211	19.1536	19.6027	18.8964
330160	30.5678	32.7840	28.8043	30.6325
330162	27.7162	27.1166	27.6010	27.4784
330163	20.4555	18.7816	20.7456	19.9795
330164	19.4831	19.8647	20.8018	20.0537
330166	14.1815	15.0954	15.4420	14.8722
330167	31.1834	29.3634	30.2346	30.2561
330169	33.4462	37.2655	35.4794	35.3665
330171	25.4314	25.5307	24.8035	25.2597
330175	16.6851	17.3290	18.3116	17.4443
330177	14.5378	17.2907	16.3704	16.0830
330179	12.6857	13.4999	13.8953	13.3684
330180	15.5304	16.8787	17.7604	16.6634
330181	32.4718	32.5192	33.0908	32.6900
330182	30.9260	32.9371	33.5756	32.5197
330183	19.9964	19.9207	20.1294	20.0163
330184	27.4859	30.0400	31.3706	29.6316
330185	26.9496	25.6112	26.8344	26.4445
330188	18.7208	20.9587	18.8000	19.4696
330189	17.6585	15.1253	18.4498	16.9610
330191	18.8586	18.6206	19.0348	18.8384
330193	29.8042	36.5481	30.2260	31.8162
330194	35.5748	34.6785	35.2036	35.1664
330195	31.3915	33.3254	34.8966	33.0747
330196	28.4465	30.8165	23.7924	27.8886
330197	16.9990	17.6646	18.3527	17.6922
330198	23.8113	24.6038	24.8590	24.4203
330199	27.6605	28.7609	24.3024	26.9772
330201	30.3293	32.1149	27.8738	30.0899
330202	30.7869	31.4435	25.5880	29.1884
330203	19.2353	20.7575	*	19.9954
330204	29.3662	29.4418	23.6548	27.7204
330205	19.4642	20.5793	22.3490	20.7832
330208	25.8201	26.1822	26.6682	26.2220
330209	24.8834	23.9924	25.1281	24.6749
330211	19.0968	19.5064	19.5405	19.3836
330212	21.1777	21.7705	24.7681	22.5597
330213	18.5066	18.7722	19.6796	18.9552
330214	32.1966	36.4447	31.4165	33.0084
330215	17.5818	19.6926	17.9863	18.3902
330218	21.7072	21.4796	21.1890	21.4557
330219	22.1476	23.9908	23.4310	23.1411
330221	32.2081	27.8485	33.4064	31.2763
330222	17.8140	18.3666	18.8006	18.3281
330223	17.2754	17.6199	17.8306	17.5845
330224	21.9728	19.6410	19.2734	20.3025
330225	25.8043	25.5823	27.0379	26.0910
330226	17.6708	16.6711	23.2189	18.8201
330229	16.2509	16.8026	17.5326	16.8453
330230	28.8625	29.7626	29.6283	29.3810
330231	29.0917	30.0923	21.4675	27.3980
330232	19.5042	17.9083	19.1787	18.8569
330233	33.3008	30.9241	44.1265	35.0751
330234	33.3286	35.1777	35.0720	34.4830
330235	19.4532	21.0842	19.5880	20.0417
330236	30.7017	29.5913	31.3463	30.5397
330238	14.7951	15.6245	17.3976	15.9047
330239	17.2808	17.4462	18.5079	17.7328

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
330240	30.4765	29.7082	23.8099	28.5234
330241	22.6046	24.6076	23.8638	23.6409
330242	24.7401	28.2612	27.6384	26.8305
330245	17.2803	17.6767	18.5221	17.8508
330246	26.6587	28.1090	28.1205	27.6612
330247	27.6203	28.5310	27.7465	27.9483
330249	16.4818	16.2687	17.1320	16.6304
330250	19.5553	19.5823	19.9619	19.7058
330252	17.0379	*	*	17.0379
330254	16.7252	18.4057	15.9123	17.0146
330258	30.4656	29.7426	31.8910	30.6921
330259	25.2526	26.2661	25.9994	25.8364
330261	26.1654	25.7244	29.1996	27.0324
330263	19.6388	20.4149	18.7378	19.6517
330264	23.1359	22.8672	22.8099	22.9301
330265	15.6249	18.0193	17.7470	17.0706
330267	23.5561	24.5183	24.5939	24.2287
330268	14.6249	13.0595	15.9060	14.5364
330270	28.2392	34.4254	33.6294	31.8926
330273	25.8910	23.1511	26.0565	24.9430
330275	17.4223	19.0548	18.5826	18.2987
330276	17.7452	18.2870	19.0228	18.3342
330277	17.1570	18.3169	19.1761	18.2131
330279	19.9079	19.5983	20.7107	20.0436
330285	22.4717	23.5264	23.3068	23.0987
330286	25.0948	26.7633	27.6508	26.5469
330290	32.5792	33.5056	30.4706	32.2470
330293	15.3782	16.2158	16.9238	16.1248
330304	29.3687	26.7683	27.3562	27.8227
330306	27.6214	27.3798	29.5186	28.1311
330307	20.7362	21.0673	21.7142	21.1685
330308	36.8361	*	*	36.8361
330314	24.7399	24.5444	25.9937	25.0514
330316	28.7872	27.6102	27.9543	28.1177
330327	16.9724	16.4611	20.3874	17.9258
330331	31.0405	31.6216	33.1276	32.0298
330332	27.1554	27.6914	25.3689	26.7855
330333	*	29.1931	39.5812	33.8163
330336	30.1708	29.7689	29.8294	29.9290
330338	23.0077	22.4581	21.2670	22.2755
330339	19.6730	20.0111	20.1028	19.9220
330340	26.9201	28.8419	28.4129	28.0687
330350	30.3754	30.8889	30.9763	30.7427
330353	33.5519	32.1984	34.2431	33.3163
330357	34.7492	36.5928	33.5805	35.0171
330359	29.2920	*	*	29.2920
330372	22.5027	28.8482	33.3771	27.5982
330381	29.2438	31.0091	31.8602	30.6612
330385	28.8373	35.6722	26.5687	30.6041
330386	24.6713	17.6383	20.4231	20.5236
330389	32.4234	30.2505	37.3749	32.9392
330390	29.7936	31.1577	30.8744	30.5843
330393	27.9901	26.4958	28.7973	27.7348
330394	18.7724	19.2392	19.1086	19.0396
330395	37.6805	32.8749	32.7494	34.3792
330396	30.7228	34.8648	24.4840	30.2958
330397	31.0043	33.9061	32.6068	32.3768
330398	30.3217	28.7707	29.2872	29.6846
330399	35.5212	32.9100	27.1103	31.5503
330400	*	*	16.2707	16.2707
340001	19.0159	18.1814	19.7093	18.9605
340002	18.7790	20.8858	20.5253	20.0921
340003	21.9674	20.2540	19.5145	20.4958

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
340004	17.8923	19.0695	20.8540	19.2829
340005	14.0941	15.8205	16.7176	15.5039
340006	17.8145	16.9818	16.5709	17.0955
340007	17.1708	17.2356	18.3399	17.5929
340008	18.3769	21.2889	20.3756	20.0138
340009	20.5011	20.5023	20.9178	20.6132
340010	17.6500	18.3380	19.4302	18.4900
340011	14.9215	13.6554	14.4798	14.3110
340012	16.6574	18.8701	17.5112	17.6905
340013	17.4302	20.1747	19.4613	19.0754
340014	19.9203	20.5748	27.5775	22.0875
340015	19.0056	20.1562	19.4256	19.5364
340016	16.3977	17.5404	18.8958	17.5664
340017	19.2203	19.4192	20.2775	19.6581
340018	15.1579	14.0930	18.1751	15.6569
340019	13.5919	14.8980	15.2887	14.5682
340020	16.7515	18.6334	18.0897	17.8512
340021	19.6658	19.8020	20.5813	20.0277
340022	16.7211	17.8178	18.7714	17.7886
340023	17.2054	18.5414	19.3146	18.3540
340024	16.6389	17.3824	17.9130	17.3104
340025	16.8198	17.2648	18.4628	17.5179
340027	17.2971	18.0816	19.4548	18.2602
340028	17.7196	18.4787	19.9403	18.7490
340030	20.0530	21.1420	22.4709	21.2046
340031	12.3895	14.6951	14.6370	13.8761
340032	20.4735	20.0049	20.7444	20.4083
340035	18.0988	20.2312	18.9930	19.1067
340036	16.9674	18.2190	17.7619	17.6323
340037	15.5347	16.6576	17.5829	16.5842
340038	17.0154	17.3762	18.1493	17.5050
340039	20.1470	20.5876	21.3711	20.7125
340040	20.1214	20.4282	21.9720	20.8376
340041	17.7626	15.1419	15.5873	16.0395
340042	16.6300	16.9298	17.0034	16.8680
340044	16.3657	18.8687	18.0863	17.7757
340045	12.4152	13.0538	13.6182	12.9769
340047	19.6050	20.0602	20.0744	19.9132
340049	16.4988	19.2050	19.5127	18.2917
340050	18.5570	20.0090	19.6726	19.4142
340051	18.5953	16.5617	19.3627	18.0980
340052	21.3746	22.8173	23.2134	22.4161
340053	19.4881	20.9495	19.9915	20.1403
340054	14.4722	15.5993	15.5090	15.2167
340055	18.1786	19.6056	19.0861	18.9634
340060	17.9167	18.7137	19.3410	18.6670
340061	20.8474	21.5385	21.9695	21.4360
340063	16.9232	17.0249	16.7377	16.9005
340064	17.2584	20.7125	18.5069	18.8299
340065	18.3212	17.5414	17.5818	17.8131
340067	18.6132	19.3785	19.7187	19.2365
340068	16.7015	16.6305	17.8065	17.0483
340069	19.9948	21.0840	21.6728	20.9166
340070	18.6270	19.7796	20.5881	19.6815
340071	16.3701	17.1424	18.0767	17.2043
340072	15.6014	16.7400	17.7129	16.7307
340073	20.6905	21.9761	23.5832	22.0016
340075	18.2060	18.7090	20.8934	19.2370
340080	16.8453	22.2533	18.2061	19.0642
340084	21.7813	17.1532	19.0103	19.0182
340085	16.2355	17.3462	18.3179	17.3020
340087	16.6987	17.3884	18.2255	17.4652
340088	19.8314	21.0226	22.2322	21.0156

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
340089	13.8633	13.8535	15.4760	14.4308
340090	17.8457	17.0584	18.6263	17.8484
340091	19.3955	20.5923	20.2909	20.1016
340093	15.1615	16.3276	16.8903	16.0870
340094	15.9568	19.0406	*	17.4328
340096	17.9764	17.8189	19.4696	18.4348
340097	21.3700	18.8412	18.2399	19.4192
340098	20.1671	21.4135	21.9578	21.2065
340099	15.0888	16.8305	15.3752	15.7269
340101	15.3610	13.9994	15.6509	14.9555
340104	15.8729	13.0462	11.5169	13.4465
340105	18.9007	20.2954	*	19.5963
340106	18.0769	17.7220	18.1211	17.9704
340107	16.9503	18.0205	19.3197	18.0904
340109	17.9576	18.7746	19.0532	18.6067
340111	14.9247	16.3344	16.5976	15.9665
340112	14.5966	14.7562	15.5142	14.9625
340113	20.8821	21.2906	21.7973	21.3226
340114	20.8195	21.2166	20.7261	20.9197
340115	18.6700	19.7578	21.7586	20.0594
340116	19.4786	20.4255	20.6800	20.2116
340119	16.8537	18.8507	19.3687	18.3855
340120	14.3822	15.0410	15.8240	15.1047
340121	15.9686	16.3295	17.8771	16.7251
340123	16.2227	16.9114	18.9078	17.3848
340124	14.0462	15.5779	17.4185	15.7171
340125	19.6252	19.7164	20.2270	19.8478
340126	17.7214	18.8100	19.2911	18.6445
340127	17.3849	19.3925	19.3842	18.7105
340129	19.7332	20.4605	20.5809	20.2641
340130	19.4430	19.7422	19.8707	19.6940
340131	18.9361	19.7908	21.3849	20.0481
340132	16.9369	17.3448	17.5711	17.3015
340133	14.3501	16.4766	17.2138	16.0568
340137	*	21.0249	31.7702	23.8273
340138	19.2807	20.7618	*	20.0092
340141	22.2234	21.3754	22.7090	22.1155
340142	16.0912	17.1525	18.0766	17.1107
340143	20.9509	21.3604	24.4098	22.2423
340144	19.1919	20.9113	22.9183	20.9333
340145	19.1964	20.1081	20.5002	19.9671
340146	13.0119	15.9203	17.3051	15.3284
340147	19.1087	19.6827	20.5069	19.7958
340148	18.4227	18.5875	18.9912	18.6555
340151	16.5671	16.7275	18.4733	17.2579
340153	20.6588	20.6420	20.7533	20.6847
340155	20.4236	20.5792	22.6127	21.1834
340158	17.2565	18.1439	19.0843	18.2232
340159	16.8048	17.3893	19.0255	17.7569
340160	15.5298	16.1778	16.7170	16.1477
340162	16.6362	14.3472	*	16.3541
340164	19.6820	21.2523	21.5769	20.8240
340166	19.1743	20.0434	20.8270	20.0663
340168	14.7508	15.2919	15.6071	15.2494
340171	20.0495	21.5973	22.4779	21.4041
340173	20.2132	19.3353	21.0898	20.2512
350001	11.7345	14.9080	16.6551	14.4005
350002	17.2834	17.5259	18.3459	17.7122
350003	17.4276	18.2470	19.0720	18.2341
350004	17.9049	20.6518	23.7016	20.6528
350005	16.0259	18.3792	19.8486	18.1602
350006	16.6241	18.4107	19.0343	17.9691
350007	13.2771	13.3292	14.7114	13.7285

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
350008	21.6983	20.4777	22.3784	21.4889
350009	18.2818	19.1611	18.3688	18.6099
350010	15.2762	16.2808	16.7899	16.1032
350011	18.4931	18.2008	19.1944	18.6474
350012	12.7287	15.7033	18.2524	15.6975
350013	16.6784	16.4579	17.2596	16.7923
350014	15.7906	16.8403	18.0997	16.8353
350015	15.8651	16.3397	16.4878	16.2122
350016	11.6255	11.6524	*	11.6395
350017	17.7835	17.6278	17.5124	17.6446
350018	13.6366	14.4928	16.4939	14.8276
350019	19.4037	19.3063	20.1608	19.6008
350021	12.6885	16.2898	16.8617	15.2799
350023	12.7952	17.9048	17.4983	16.4355
350024	14.3740	14.7529	15.7902	14.9309
350025	16.2400	17.1199	15.0469	16.0889
350027	17.1177	15.0835	15.5175	15.9198
350029	12.7950	13.5219	14.6177	13.6003
350030	17.3497	17.7209	18.1131	17.7195
350033	14.8953	14.9012	16.0870	15.2715
350034	18.3180	18.7245	19.6445	18.8742
350035	10.1561	10.4570	11.7675	10.7676
350038	18.7357	17.6666	19.6852	18.6647
350039	17.3128	17.0361	16.6280	17.0025
350041	14.6772	14.6680	19.1341	15.9095
350042	16.7544	16.7402	19.3309	17.4345
350043	17.1573	16.8876	16.7433	16.9224
350044	10.5296	10.2154	11.0178	10.5670
350047	17.9270	14.4628	18.0094	16.8202
350049	14.5330	14.8019	18.1993	15.6280
350050	10.5733	11.4921	11.2484	11.0842
350051	17.5323	17.7279	17.0183	17.4309
350053	13.9379	14.6398	15.9165	14.8076
350055	12.3722	14.5691	15.7916	14.3152
350056	14.7382	14.8293	15.0995	14.8885
350058	14.3484	15.9378	16.7034	15.7009
350060	9.5962	10.3666	10.3076	10.0926
350061	14.5894	15.7269	18.8790	16.4237
360001	17.3933	17.0791	18.9348	17.8110
360002	17.3955	18.0139	18.1923	17.9206
360003	22.0351	22.7471	22.9625	22.5524
360006	22.0906	21.8048	22.4436	22.1137
360007	17.0955	18.0941	14.8213	16.6387
360008	17.8185	18.5439	18.7961	18.3915
360009	17.5328	18.9322	18.8403	18.4150
360010	18.0886	19.2288	19.1852	18.8325
360011	18.9491	19.3835	21.3659	19.9105
360012	19.2221	19.9881	19.8772	19.7036
360013	20.8112	20.6021	21.3690	20.9190
360014	19.8844	20.2390	20.7419	20.2907
360016	18.7709	17.8065	21.2505	19.1632
360017	22.4972	21.7543	22.2740	22.1696
360018	21.3436	23.5219	24.6686	23.0168
360019	20.1726	18.7147	20.6480	19.8139
360020	22.9512	21.7806	22.1751	22.3268
360024	18.5412	19.8508	20.0395	19.4699
360025	19.2918	20.3638	20.2531	19.9763
360026	17.0378	18.2222	17.9523	17.7450
360027	20.3568	21.0406	21.7259	21.0412
360028	17.2681	17.0177	18.7174	17.5937
360029	18.2193	18.7622	19.2928	18.7626
360030	15.3535	17.5748	17.6058	16.8173
360031	19.8987	19.3858	21.0687	20.1028

* Wage data not available for the provider that year.
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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
360032	17.9274	18.6559	19.8020	18.7667
360034	15.5649	14.9534	17.9594	16.1258
360035	20.3358	20.5557	21.1368	20.6811
360036	19.1835	20.2107	20.9916	20.1250
360037	22.5240	23.5094	22.4361	22.8217
360038	19.8921	21.2467	22.7344	21.1378
360039	17.4033	18.7791	18.8648	18.5318
360040	18.1238	18.1618	18.7425	18.3503
360041	18.4244	19.5744	19.7968	19.2697
360042	16.1187	17.4306	17.1952	16.9328
360044	16.7925	17.0612	17.6882	17.1993
360045	21.1814	22.1471	22.4018	21.8209
360046	19.3198	20.4755	20.4607	20.0909
360047	15.3399	17.1871	15.2922	15.8884
360048	21.1719	22.5857	22.4890	22.0646
360049	18.8084	20.4564	20.8393	20.0008
360050	12.8888	12.9873	15.0568	13.6080
360051	20.9461	20.8338	20.8757	20.8844
360052	20.0182	19.6233	18.7143	19.4845
360054	16.1875	17.2574	17.4911	16.9860
360055	23.2671	21.5585	21.3101	22.0600
360056	18.7606	19.0474	19.9428	19.2810
360057	13.8094	15.0146	15.8569	14.8518
360058	17.9178	18.6992	19.3306	18.6392
360059	21.9689	20.5618	19.3576	20.6833
360062	20.3111	20.7588	22.2132	21.0473
360063	22.7866	18.4512	17.5108	19.4998
360064	20.6416	20.4846	19.6315	20.2734
360065	19.4531	20.0532	19.6199	19.7128
360066	20.0285	21.6015	22.8175	21.4937
360067	14.5687	15.3157	14.2745	14.7189
360068	21.2199	21.2789	22.5953	21.7071
360069	17.8329	16.6982	14.6597	16.2292
360070	17.5300	17.3758	18.8406	17.9171
360071	23.8013	17.9756	18.9990	20.2321
360072	17.9697	18.1467	19.0028	18.3949
360074	18.2614	20.8275	16.3870	18.3729
360075	18.4733	22.4523	26.0663	21.4074
360076	19.5864	20.0700	20.3028	19.9910
360077	20.8202	21.1053	21.5517	21.1550
360078	20.7940	21.4392	21.4033	21.2167
360079	22.0033	22.1096	21.6644	21.9274
360080	16.6414	17.3892	17.6369	17.2080
360081	19.6354	21.7342	20.4614	20.6451
360082	22.8585	22.9460	20.7610	22.1460
360083	18.4635	*	*	18.4635
360084	20.0914	20.4894	22.0492	20.8664
360085	21.6670	21.9051	22.0445	21.8712
360086	17.0389	19.5378	19.3701	18.5836
360087	20.0395	20.1684	20.7969	20.3249
360088	22.3121	24.0097	24.0822	23.4637
360089	20.5610	18.3881	18.1941	19.0415
360090	20.3955	21.0376	20.8971	20.7887
360091	21.0335	21.3126	21.8447	21.4132
360092	15.9095	20.4534	21.5073	18.9727
360093	18.5744	19.3292	19.0261	18.9905
360094	18.3105	18.8780	20.1227	19.0848
360095	18.7079	20.4149	19.8521	19.6643
360096	17.1617	18.2215	16.7129	17.3379
360098	18.3361	19.5314	19.7705	19.2208
360099	18.5523	18.5855	19.6241	18.9389
360100	17.6554	17.8989	18.0434	17.8622
360101	22.3121	21.3914	20.2635	21.3487

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
360102	19.7700	19.4345	18.5367	19.2837
360103	22.6228	*	*	22.6228
360106	16.1843	18.9752	19.1778	18.1964
360107	18.6195	19.7599	22.1359	20.1794
360108	16.5076	17.5832	20.0681	18.0497
360109	19.5162	20.1032	19.9237	19.8530
360112	22.5676	22.5589	24.6335	23.2167
360113	22.4584	24.2654	21.4926	22.7777
360114	16.3288	17.8761	18.7509	17.6758
360115	18.1859	18.8059	20.5842	19.2284
360116	18.0835	18.8882	18.8319	18.6000
360118	18.6098	19.3732	19.9141	19.3196
360121	21.0979	22.1093	22.2175	21.8088
360123	19.1313	20.3236	20.9792	20.1480
360125	18.1756	19.0774	20.5508	19.2432
360126	20.4558	19.0036	24.5387	21.1181
360127	16.9228	17.5882	16.4582	16.9587
360128	15.5823	16.1243	17.0515	16.2361
360129	15.5241	15.5002	16.6114	15.8783
360130	15.3356	17.2009	18.4539	16.9275
360131	18.2897	19.2241	18.4688	18.6543
360132	18.2733	19.9171	21.3493	19.8413
360133	19.0349	19.4316	20.3421	19.5683
360134	20.2383	20.6876	20.8407	20.5767
360136	17.8473	17.7827	18.2194	17.9464
360137	20.2581	20.1756	21.6611	20.6928
360140	19.1263	20.2791	21.2881	20.2299
360141	22.8496	23.0016	23.4448	23.0886
360142	17.3154	17.0059	18.3188	17.5468
360143	20.4378	20.1989	21.0336	20.5552
360144	21.9159	23.2191	20.9033	21.9858
360145	19.3907	19.6413	20.0513	19.6956
360147	16.5898	16.6616	17.6779	16.9779
360148	18.8914	19.2816	19.1393	19.1100
360149	18.7891	19.9808	*	19.3785
360150	20.6253	21.1327	22.3752	21.3686
360151	17.4863	16.6019	19.2788	17.7101
360152	21.9978	20.8328	21.6005	21.4611
360153	14.8948	15.4132	16.7399	15.6460
360154	13.7761	14.3270	14.3593	14.1608
360155	20.8977	22.5347	22.4566	21.9588
360156	17.9155	17.8787	18.9095	18.2225
360159	20.7119	20.2841	21.5695	20.8609
360161	19.4122	19.1983	20.3933	19.6539
360162	18.6084	*	*	18.6084
360163	20.3821	20.7275	21.2689	20.8164
360164	16.1643	*	*	16.1643
360165	19.4831	18.2571	18.2417	18.6524
360166	16.9778	18.7321	*	17.8568
360170	17.1779	16.4653	20.4407	17.9153
360172	18.4690	18.6720	19.7088	19.0739
360174	19.0887	19.9725	20.2255	19.8619
360175	20.4133	21.1685	21.5450	21.0739
360176	15.4730	15.9430	16.6228	16.0305
360177	19.4122	18.7898	18.9576	19.0368
360178	17.3985	18.8704	16.7962	17.7254
360179	19.1417	21.1309	21.1234	20.4340
360180	22.0949	21.3826	21.0146	21.4888
360184	19.3502	19.1224	*	19.2391
360185	18.6697	18.7291	19.4858	18.9599
360186	20.8579	18.3246	20.7572	19.9570
360187	18.0209	18.5109	19.6535	18.7427
360188	17.5327	17.1044	18.3057	17.6838

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
360189	17.3713	17.8981	18.5940	17.9373
360192	20.9980	21.6365	22.7846	21.8042
360193	17.6874	*	*	17.6874
360194	17.6890	17.1884	17.6140	17.4968
360195	19.0173	19.9302	20.5828	19.8368
360197	19.4250	20.0603	20.5062	19.9981
360200	17.7583	16.2306	17.9623	17.3129
360203	15.6212	16.3181	15.9609	15.9716
360204	19.3543	22.2494	*	20.5754
360210	20.2809	20.9955	21.8629	21.0428
360211	19.5762	19.9895	20.6081	20.0860
360212	20.2288	21.1123	20.6987	20.6781
360213	18.3253	19.4765	19.0584	18.9547
360218	18.4140	18.9469	18.8204	18.7231
360230	21.4385	21.9763	20.8042	21.3850
360231	13.5586	12.9588	14.4168	13.6102
360234	22.4324	23.2588	19.5102	21.8679
360236	19.4881	17.8426	19.9971	19.0637
360239	19.8584	20.1854	19.5907	19.8872
360241	22.0795	23.5318	25.3741	23.5406
360243	13.5835	14.8694	*	14.2018
360244	10.5518	*	*	10.5518
360245	15.0579	16.4622	15.9782	15.8310
360247	18.1116	16.3092	17.0776	17.0967
360248	21.6499	*	*	21.6499
360249	*	*	25.4331	25.4331
370001	21.2714	22.5214	24.1929	22.6419
370002	14.0847	14.7315	15.4333	14.7194
370004	16.7671	19.3236	18.5233	18.1546
370005	17.3817	15.1654	15.3881	15.9167
370006	12.9493	16.6484	16.4995	15.3118
370007	17.1535	15.2905	15.8312	16.0498
370008	17.3048	16.6566	17.5553	17.1688
370011	14.6397	14.9701	14.9186	14.8316
370012	10.8003	11.7265	12.4942	11.6228
370013	18.0385	19.3398	18.9584	18.7911
370014	19.6543	20.6512	20.2858	20.2276
370015	17.8247	17.0319	20.8765	18.5256
370016	16.6401	19.1191	19.1613	18.3470
370017	12.9837	12.6400	13.6531	13.1239
370018	14.2438	18.5107	17.7054	16.6955
370019	16.8801	14.2277	14.6216	15.1546
370020	13.4787	14.3798	15.1035	14.3356
370021	11.2639	12.0474	12.9030	12.0738
370022	17.9015	17.2344	17.3302	17.4722
370023	16.8215	17.7630	17.5148	17.3665
370025	16.3970	17.4988	18.4375	17.4425
370026	16.8991	18.3371	18.0412	17.7563
370028	19.7118	18.4445	21.1086	19.7253
370029	13.8930	16.4924	18.2580	16.0663
370030	15.4736	16.3269	16.5803	16.1058
370032	16.6432	18.2821	18.1538	17.7030
370033	12.3910	13.5216	11.3210	12.4595
370034	14.5101	15.6386	15.6288	15.2811
370035	18.9629	25.5764	*	21.9610
370036	11.4593	12.4026	12.4070	12.0833
370037	17.7491	16.7012	18.8472	17.7402
370038	12.8135	13.3084	13.0210	13.0660
370039	16.2661	15.5206	19.4498	17.0406
370040	14.2582	14.4672	15.5109	14.7638
370041	17.4123	16.7356	16.2316	16.8488
370042	14.6146	14.9175	15.2764	14.9764
370043	16.0764	15.9534	17.0892	16.3549

* Wage data not available for the provider that year.
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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
370045	12.4352	10.1994	11.3560	11.2236
370046	18.1499	18.8334	*	18.4831
370047	15.6716	16.7554	17.8769	16.7444
370048	17.4356	18.2150	15.6803	17.1206
370049	19.8397	20.7176	19.4868	19.9892
370051	12.1816	11.6736	12.5171	12.1083
370054	16.5598	16.9049	18.0787	17.1343
370056	18.8774	18.4558	18.1432	18.4804
370057	14.6564	16.7261	15.1228	15.5054
370059	16.4578	18.1386	18.3314	17.6259
370060	15.1169	16.5403	19.3051	16.8157
370063	17.0645	14.4132	16.7342	16.0603
370064	8.7499	10.9676	11.9954	10.6741
370065	16.5638	16.6898	18.1349	17.1281
370071	14.9472	16.1439	16.4567	15.8354
370072	14.6497	14.4742	13.6519	14.2760
370076	12.8568	13.5694	14.3555	13.5818
370077	17.6236	*	*	17.6236
370078	17.2370	18.4086	19.2412	18.2505
370079	13.5976	16.6861	16.9201	15.7005
370080	14.3445	13.9239	14.7323	14.3058
370082	13.5434	13.9634	15.0669	14.1855
370083	11.4905	13.1519	13.1316	12.6096
370084	21.7484	22.0545	13.1197	17.8063
370085	11.8844	11.2842	48.1271	14.9179
370086	13.5646	15.4404	11.1900	13.1933
370089	14.4968	16.0966	17.2638	15.9758
370091	17.5839	19.1698	20.1860	18.9733
370092	14.6757	14.9802	15.7678	15.1529
370093	18.5747	18.4600	19.7008	19.0469
370094	18.3796	18.0002	19.5462	18.6588
370095	14.1319	12.6383	13.4202	13.3755
370097	23.3116	22.9714	23.2056	23.1716
370099	16.2649	15.4549	18.9823	16.7206
370100	17.1036	14.0168	18.8274	16.6764
370103	15.8967	19.2353	18.2685	17.7516
370105	17.6811	21.3352	20.7890	19.9853
370106	18.6238	18.5485	18.7413	18.6375
370108	12.2379	12.3279	12.7470	12.4421
370112	15.2488	14.8539	15.3039	15.1287
370113	16.2043	16.1046	17.6107	16.6143
370114	15.9801	16.5268	17.4009	16.6473
370121	19.5506	22.5611	21.3099	21.1472
370122	12.1514	15.0645	15.4375	13.9736
370123	16.3609	18.9159	19.4409	18.1517
370125	13.5453	15.6284	13.9436	14.3107
370126	18.2447	23.9654	15.8020	19.1824
370131	16.2403	17.5689	15.7261	16.4650
370133	10.0169	10.9575	12.9545	11.1921
370138	15.9372	16.4005	17.5551	16.6500
370139	13.3023	14.8612	14.9964	14.3624
370140	15.2265	16.0721	17.1393	16.1657
370141	12.1420	18.4101	20.7798	16.3574
370146	12.5581	12.6402	13.0399	12.7467
370148	16.4147	20.6458	20.6612	19.2220
370149	16.7218	16.1850	17.0929	16.6647
370153	15.3218	17.8352	16.4669	16.5507
370154	15.9128	15.5127	15.6093	15.6789
370156	13.6363	13.9255	14.5696	14.0273
370158	15.0865	15.6917	15.6994	15.4906
370159	17.8319	28.0536	21.1267	21.7006
370163	14.5609	17.6361	20.4217	17.2893
370165	13.2174	13.0910	13.0375	13.1156

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
370166	17.8154	17.2849	21.0944	18.6510
370169	9.4807	12.5243	12.7138	11.5273
370176	16.0355	15.9476	18.9951	16.9629
370177	11.8757	11.2536	14.6481	12.5743
370178	11.6384	10.5726	11.6200	11.2422
370179	19.2677	17.2829	21.3002	18.9651
370183	7.6164	10.2945	16.9318	11.0088
370186	13.3454	13.6192	15.4533	14.1321
370190	13.7032	14.1397	19.3570	15.3737
370192	16.7402	18.4614	19.6967	18.2866
370197	21.5718	*	*	21.5718
370198	*	21.3136	*	21.3136
370200	*	*	22.5299	22.5299
380001	22.0255	20.3127	26.4822	22.5494
380002	19.4764	24.0241	21.9185	21.9840
380003	24.7434	21.7826	20.9007	22.2865
380004	23.1432	23.1451	23.3609	23.2208
380005	23.2415	24.0838	25.0750	24.1485
380006	20.5375	21.2731	21.3520	21.0653
380007	24.2933	25.2995	32.2678	27.0282
380008	21.1888	20.7063	22.1442	21.3538
380009	25.1702	23.8104	24.3851	24.4234
380010	19.7477	23.7488	22.7276	21.8451
380011	21.1353	21.1151	20.3357	20.8683
380013	20.1038	18.6818	19.8180	19.5721
380014	23.4819	24.6574	25.9828	24.7413
380017	23.8231	26.0578	25.3954	25.0552
380018	22.0776	22.3525	22.9822	22.4971
380019	20.7700	22.1215	20.8176	21.2209
380020	21.3556	20.1464	22.9568	21.5448
380021	20.6358	21.1590	23.8499	21.8371
380022	21.6110	22.6408	24.5974	22.8841
380023	19.2357	20.5462	21.3831	20.3976
380025	24.6738	26.3652	26.9346	25.9824
380026	19.2663	20.4706	20.6972	20.1525
380027	20.1576	20.8647	21.5490	20.8958
380029	18.5699	19.4246	20.1471	19.4015
380031	22.8346	23.3181	23.1696	23.1091
380033	23.2881	25.2454	26.7146	25.0303
380035	21.6533	22.4099	23.9719	22.6232
380036	19.3269	27.1587	27.2157	23.8613
380037	21.2347	21.9158	22.1774	21.7911
380038	25.5750	26.0869	26.7759	26.1419
380039	22.1235	23.1746	22.8048	22.6937
380040	21.6378	26.2717	22.5477	23.4095
380042	19.8096	21.1176	24.4172	21.7244
380047	21.9511	23.0718	24.2524	23.1258
380048	18.3847	17.5885	18.3005	18.0671
380050	18.2486	20.3934	20.3205	19.6254
380051	21.2358	22.3568	22.3207	21.9927
380052	17.8741	19.4570	18.6299	18.6300
380055	21.2459	*	*	21.2459
380056	17.1600	19.5185	18.4961	18.3892
380060	23.2923	24.2670	25.2553	24.2520
380061	22.5983	22.3736	22.8781	22.6217
380062	18.5229	20.7716	18.2148	19.1910
380063	19.3566	20.4077	*	19.9113
380064	19.8719	19.9826	22.9160	20.8404
380065	22.1706	26.1404	22.9608	23.6770
380066	20.4189	22.0349	23.2794	21.9793
380068	22.7573	22.3178	*	22.5559
380069	19.5793	19.8300	20.4882	19.9809
380070	24.7116	27.2541	27.7790	26.6130

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
380071	20.4707	22.6386	25.1808	22.8743
380072	16.3169	19.1553	19.4346	18.3236
380075	22.1703	22.3625	22.4139	22.3203
380078	19.1035	20.2507	21.0903	20.1439
380081	20.5902	20.9882	20.4082	20.6790
380082	22.5856	22.2275	22.9606	22.5990
380083	21.8096	21.3859	21.7431	21.6440
380084	23.6412	24.2844	27.1689	24.9815
380087	14.0976	16.5309	17.0380	15.8783
380088	19.5204	21.5225	19.5346	20.1728
380089	23.7413	19.5255	25.2908	23.0572
380090	27.0867	29.2702	24.9351	26.9453
380091	22.8333	27.5560	25.3062	25.1774
390001	18.6384	19.2989	19.6732	19.2277
390002	18.0787	21.8353	*	19.8326
390003	17.2435	17.1371	18.1025	17.4798
390004	18.8899	19.2277	20.1410	19.4180
390005	16.4459	17.3506	*	16.9145
390006	19.6012	20.2959	21.1173	20.3037
390007	21.4093	21.7506	15.6739	19.2842
390008	16.7440	17.8297	18.1339	17.5605
390009	20.1181	20.6507	20.7869	20.5095
390010	17.2315	17.5127	17.3335	17.3583
390011	18.0683	18.1717	18.3257	18.1941
390012	20.0227	20.6523	21.0569	20.5659
390013	19.3300	19.2698	19.6562	19.4200
390015	12.9372	13.1337	13.7352	13.2647
390016	17.0679	16.9892	17.0438	17.0335
390017	16.2170	16.7493	18.6113	17.1752
390018	19.1241	21.3626	19.0279	19.8558
390019	16.3965	16.7848	17.9046	17.0403
390022	22.8967	21.5064	24.3824	22.9198
390023	19.5639	21.8270	21.0689	20.8880
390024	25.0359	24.9437	25.5672	25.1781
390025	15.7111	15.6155	15.6650	15.6645
390026	22.7645	22.3902	22.6877	22.6120
390027	27.6893	26.8878	31.2135	28.5811
390028	20.1087	22.7700	24.0895	22.1870
390029	19.6883	21.5729	21.2661	20.8012
390030	18.3978	17.9580	18.6645	18.3352
390031	19.5175	19.2755	18.3572	19.0574
390032	18.1492	17.8041	21.5105	19.0439
390035	18.5146	20.2029	18.5192	19.0782
390036	18.8657	19.9880	19.7671	19.5278
390037	22.2359	21.0616	20.4263	21.2243
390039	16.5438	17.1046	17.5268	17.0466
390040	15.1211	15.9612	16.6876	15.9078
390041	19.5760	19.8080	20.1482	19.8333
390042	21.1276	22.7693	22.6393	22.1864
390043	16.3561	17.2607	17.4764	17.0230
390044	19.5419	20.2813	13.2304	16.8712
390045	18.4591	18.5574	19.2907	18.7716
390046	20.4608	20.7303	16.6014	19.0179
390047	24.5824	27.6661	18.9455	23.5893
390048	18.3801	19.0920	19.7685	19.0433
390049	21.1318	21.1217	22.1009	21.4604
390050	20.9240	22.8808	22.2639	22.0253
390051	26.0485	25.7910	20.3683	23.9994
390052	17.0988	20.9306	19.2727	19.0857
390054	17.4382	17.8852	18.4975	17.9431
390055	25.8961	24.2211	23.5510	24.5324
390056	17.1692	17.7858	19.3901	18.0977
390057	19.7459	20.2059	16.4148	18.5380

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
390058	19.2543	19.7379	19.8418	19.6169
390060	13.6276	*	*	13.6276
390061	20.4819	21.2392	23.8722	21.8310
390062	16.4505	16.6721	17.3750	16.8291
390063	19.6373	20.0125	19.4965	19.7211
390065	20.0001	19.9361	15.3313	18.1038
390066	18.7064	19.8539	18.8152	19.1167
390067	20.6515	20.9688	21.2031	20.9451
390068	17.5524	18.3158	19.1109	18.3267
390069	19.2858	19.6466	*	19.4555
390070	20.1862	16.1988	21.8549	19.3957
390071	16.2298	15.7165	16.0100	15.9856
390072	15.5565	16.3133	16.2919	16.0432
390073	20.6859	20.5581	21.2623	20.8422
390074	16.5971	18.4806	18.3093	17.7465
390075	17.2676	17.9840	18.1131	17.7404
390076	21.4307	20.2475	21.3290	20.9889
390078	18.2328	19.2089	19.0156	18.8052
390079	18.1969	18.3312	18.9269	18.4731
390080	19.5180	18.8028	21.4768	19.8681
390081	23.9922	24.8351	*	24.4080
390083	20.5919	*	*	20.5919
390084	16.3463	16.4026	20.2529	17.4556
390086	17.2481	18.5265	18.6854	18.1599
390088	23.4941	23.6173	22.3275	23.2063
390090	20.6463	21.6437	21.3759	21.2068
390091	18.3746	18.1569	18.2060	18.2472
390093	16.6336	17.7171	18.4442	17.6019
390095	13.0459	16.3357	16.6933	15.2336
390096	19.3118	19.1171	22.4382	20.4516
390097	21.4115	23.5963	25.2738	23.2417
390100	20.3014	20.7859	20.9809	20.6913
390101	17.0534	17.9499	18.5039	17.8169
390102	19.4924	19.0461	21.5496	20.0293
390103	17.7054	18.4312	18.8667	18.3176
390104	15.9605	15.9008	16.3255	16.0548
390106	16.2783	16.6666	16.8439	16.6044
390107	19.1793	19.5178	21.0429	19.9329
390108	21.2872	21.0899	21.1820	21.1861
390109	14.6645	16.4597	16.5299	15.8639
390110	21.3191	21.5282	21.5388	21.4672
390111	28.7875	27.5193	32.0778	29.4304
390112	14.0439	14.9427	*	14.5099
390113	17.9377	19.1945	19.3634	18.8262
390114	22.9698	19.6295	*	21.2139
390115	24.7244	23.3461	21.3119	23.0378
390116	20.6016	21.4877	21.3671	21.1457
390117	16.9036	17.9393	18.0769	17.6425
390118	16.8962	18.3440	18.9507	18.0638
390119	18.5935	18.2951	18.8353	18.5714
390121	18.6422	20.8780	19.0503	19.5401
390122	17.4645	17.1902	17.7734	17.4764
390123	20.8412	20.8344	21.3974	21.0254
390125	15.9356	16.7983	17.5446	16.7393
390126	20.9383	20.6498	*	20.8020
390127	21.8849	21.7724	22.4555	22.0398
390128	19.4132	19.6792	19.3165	19.4699
390130	17.3253	17.7049	18.3695	17.7936
390131	16.8349	16.0986	19.2096	17.3202
390132	20.5528	21.1931	22.4903	21.3712
390133	24.6131	23.3489	19.9376	22.5639
390135	21.2497	21.5782	22.1905	21.6491
390136	17.6128	16.9737	20.6286	18.3801

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
390137	16.5598	17.5687	18.5397	17.5480
390138	18.8601	19.6212	20.6936	19.7394
390139	22.9351	24.4515	23.2945	23.5528
390142	26.7954	26.8086	27.9193	27.2106
390145	20.3393	20.3731	20.4228	20.3787
390146	17.7020	18.7922	18.6505	18.3503
390147	21.1085	20.9651	21.2492	21.1067
390150	19.6575	20.7294	20.3155	20.2474
390151	20.5084	21.6000	22.5206	21.5535
390152	19.1525	20.3353	19.4017	19.6203
390153	23.1183	23.7013	22.5900	23.1296
390154	15.8478	17.4036	*	16.6285
390156	21.1629	21.8498	22.5648	21.8420
390157	19.8268	19.6578	18.9868	19.5005
390158	21.6045	*	*	21.6045
390160	20.7676	21.4810	19.4463	20.4967
390161	12.3743	16.4799	*	14.3389
390162	21.0228	21.4095	21.9188	21.4386
390163	15.6227	16.8013	17.5312	16.6546
390164	21.5890	24.6765	24.9750	23.5327
390166	19.9612	19.0405	*	19.5017
390167	22.9136	19.8973	*	21.3982
390168	18.9936	18.7400	18.8863	18.8736
390169	18.9878	20.2382	22.0547	20.4487
390170	22.9877	26.5891	*	24.5773
390173	17.8568	18.5370	18.3816	18.2561
390174	25.2407	25.4189	25.4110	25.3577
390176	17.3577	17.8740	20.8368	18.6587
390178	17.7036	16.6993	17.0534	17.1490
390179	21.4093	21.6901	21.8593	21.6579
390180	25.1191	25.7074	*	25.4305
390181	17.0860	19.4654	23.1403	19.5445
390183	19.0834	17.8306	17.9848	18.2942
390184	20.7489	20.8060	20.9349	20.8256
390185	17.6516	18.8798	19.6989	18.7466
390189	18.6668	20.0889	5.6954	10.5640
390191	16.1993	16.3240	17.2270	16.5760
390192	16.3696	17.4537	17.2512	17.0206
390193	16.4663	16.7874	18.1209	17.0634
390194	20.1547	20.7953	21.2689	20.7092
390195	23.6920	24.6855	23.1069	23.8298
390197	18.9857	19.2690	19.7956	19.3317
390198	15.4508	15.9721	15.8833	15.7671
390199	16.6644	17.0515	17.9068	17.2031
390200	13.5898	15.1399	14.9496	14.6311
390201	20.5011	20.6296	20.3533	20.4916
390203	21.1895	20.9432	21.5141	21.2139
390204	20.8483	20.1779	22.5626	21.1871
390206	18.5746	18.4027	*	18.4910
390209	16.9558	17.4792	18.7059	17.7155
390211	17.9132	17.8638	18.4213	18.0846
390213	17.4453	18.8555	19.1553	18.5312
390215	21.4291	20.7084	21.1303	21.0799
390217	19.2926	19.1406	19.9837	19.4647
390219	21.6295	18.8292	19.6226	19.9600
390220	18.5178	18.7178	*	18.6191
390222	20.9080	21.5739	22.1548	21.5483
390223	22.6498	23.6482	21.4738	22.5019
390224	15.9058	15.3015	*	15.5965
390225	18.1752	18.6125	18.7290	18.5053
390226	23.1638	21.8268	21.7882	22.2642
390228	19.8129	19.4083	19.8180	19.6802
390231	24.4852	22.7544	19.7578	22.1186

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
390233	18.7707	19.4887	20.0152	19.4302
390235	24.6044	25.0857	21.4200	24.0078
390236	17.0339	16.2397	17.5043	16.9210
390237	21.7479	19.5230	22.2221	21.1193
390238	*	17.8211	17.1055	17.4821
390242	18.0943	*	*	18.0943
390244	14.4133	15.4611	8.2241	11.8858
390245	20.1544	26.0194	*	22.9968
390246	17.9214	18.9733	18.1348	18.3253
390247	20.6671	20.9526	21.2151	20.8919
390249	10.7336	12.7920	13.1657	12.2298
390256	23.7828	20.9469	20.5812	21.7018
390258	21.3629	21.9207	22.6852	21.9998
390260	21.1917	21.9509	15.1540	18.9540
390262	18.6684	18.2379	*	18.4504
390263	20.0939	20.6855	20.2304	20.3363
390265	19.5089	20.3580	20.4950	20.1207
390266	16.2372	17.1666	17.1290	16.8341
390267	20.5125	21.2974	19.2665	20.4773
390268	21.0161	21.3486	22.0909	21.4791
390270	17.8280	19.0925	9.3834	13.7053
390277	27.0983	*	*	27.0983
390278	19.2019	18.2865	*	18.7672
390279	13.6992	14.3241	14.8655	14.2998
390283	*	*	22.5490	22.5490
390284	*	*	34.3904	34.3904
400001	9.8615	9.9463	10.5757	10.1359
400002	9.3063	10.1417	13.0494	10.8249
400003	9.9865	10.8821	12.4078	11.0633
400004	8.4811	8.9864	8.5648	8.6695
400005	7.8494	9.5632	7.7432	8.3858
400006	10.5281	10.3444	10.1048	10.3288
400007	7.8637	6.4490	8.0174	7.3754
400009	8.3727	8.4207	8.8650	8.5497
400010	11.6642	10.6518	10.8011	10.9779
400011	5.6825	7.4979	8.5426	7.2512
400012	7.8134	8.2412	8.4728	8.1883
400013	8.2066	8.4579	9.2624	8.6839
400014	9.5354	9.5235	9.4798	9.5126
400015	10.3326	10.9505	14.4076	11.3577
400016	12.0743	13.2756	13.3922	12.9125
400017	8.5675	8.6421	9.2577	8.8024
400018	9.4534	10.4557	9.7049	9.8618
400019	10.1512	10.4332	10.8940	10.5307
400021	9.9121	10.6988	12.1434	10.9538
400022	11.1204	11.5861	12.2199	11.6336
400024	7.5594	7.8984	9.2409	8.1615
400026	7.1236	5.6454	5.8335	6.1312
400027	8.4862	9.5899	*	9.0120
400028	8.3991	8.8597	9.1794	8.7817
400031	9.7826	8.2660	*	8.9857
400032	9.7291	10.5498	10.0448	10.1074
400044	11.7484	11.9704	11.9486	11.8844
400048	8.9224	9.1701	15.1405	10.3604
400061	12.2770	12.4493	13.0988	12.5813
400079	7.0830	*	9.7203	8.1082
400087	10.3972	9.5097	9.8534	9.8687
400094	7.8208	8.9116	7.9187	8.1829
400098	7.2098	9.3308	9.7791	8.8630
400102	7.7288	9.8536	9.9903	9.1668
400103	10.7316	11.2069	11.5359	11.1167
400104	9.9416	11.0672	14.8764	11.3347
400105	10.1726	9.3049	9.0556	9.5335

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
400106	8.5143	9.3123	9.1611	8.9912
400109	10.1786	10.9826	11.8760	11.0486
400110	10.5250	10.3326	10.5277	10.4760
400111	9.5600	9.5583	10.9665	10.1021
400112	12.8478	10.1755	*	11.5026
400113	9.4835	9.2238	8.3168	9.0068
400114	6.4076	9.0496	7.0510	7.4630
400115	9.1311	9.8244	8.5487	9.1780
400117	10.0381	10.2295	10.8756	10.3823
400118	8.6964	9.4398	11.4051	9.9004
400120	9.7425	9.5274	10.6584	9.9956
400121	7.1061	7.8052	9.8322	8.2686
400122	8.4806	8.1911	7.6413	8.0571
400123	9.0217	7.8099	10.2367	9.0130
400124	11.4839	12.0999	12.2452	11.9729
400125	*	*	10.2056	10.2056
410001	22.5322	23.2808	22.0088	22.6048
410004	22.3212	22.4801	21.0638	22.0103
410005	21.2407	23.1444	22.7170	22.3365
410006	21.9798	23.3968	23.8700	23.0621
410007	20.9489	22.1452	23.1325	22.1106
410008	22.6133	23.0662	24.9726	23.5244
410009	24.0769	24.4899	23.9378	24.1687
410010	27.1426	26.9813	26.7847	26.9663
410011	24.3676	25.2926	26.0035	25.2143
410012	21.3337	24.5811	24.1695	23.4018
410013	25.0050	24.5122	24.8800	24.7951
420002	20.2049	19.4845	19.6477	19.7465
420004	19.4079	19.7968	20.8633	20.0389
420005	15.9906	17.3510	17.9694	17.1171
420006	18.2374	18.3439	19.1760	18.5687
420007	17.5783	18.2096	18.6456	18.1319
420009	17.2515	18.5456	19.8532	18.5742
420010	17.9141	17.1184	18.0252	17.6914
420011	14.9944	16.5664	18.0970	16.4913
420014	16.7219	16.6065	18.0519	17.0894
420015	17.1802	18.8411	20.1164	18.5841
420016	18.1451	15.6241	15.5485	16.2939
420018	19.7285	19.7367	21.8775	20.3791
420019	15.5521	16.9990	17.1726	16.5419
420020	17.9011	20.9449	20.2563	19.6716
420023	20.9663	19.4855	19.3278	19.8743
420026	21.8968	20.3476	21.8749	21.3678
420027	18.0774	18.8457	18.4837	18.4697
420029	18.3557	*	*	18.3557
420030	17.8215	19.1453	20.6448	19.3038
420031	13.0718	14.1855	8.2516	11.1227
420033	21.0863	21.7279	23.1303	21.9705
420036	19.7421	17.6136	21.3791	19.4718
420037	21.9603	21.7908	22.7099	22.1669
420038	16.1498	17.6726	18.6568	17.4393
420039	16.9646	15.8385	18.3017	17.0260
420042	14.6567	*	*	14.6567
420043	18.3607	19.4521	19.7570	19.1785
420048	18.0286	18.4367	18.8070	18.4223
420049	19.2340	17.5854	19.2946	18.6845
420051	18.2518	19.5001	19.2163	19.0146
420053	16.5452	16.9599	16.8300	16.7761
420054	16.5474	18.2702	20.2574	18.3229
420055	16.1823	19.2048	16.8717	17.3777
420056	15.5966	14.8695	15.1835	15.1636
420057	14.5006	15.9849	24.0765	18.1532
420059	19.1303	15.8160	17.1483	17.3325

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
420061	16.1310	16.5555	17.3543	16.6881
420062	18.9513	17.8205	21.3792	19.3650
420064	15.4531	16.7227	16.0794	16.0985
420065	19.0645	19.6902	19.9435	19.5673
420066	15.5001	15.1804	18.0042	16.2261
420067	18.3106	18.8610	19.7824	19.0239
420068	17.2144	18.5030	18.5481	18.0958
420069	16.3189	17.0788	18.1298	17.2134
420070	17.4486	18.0057	17.3876	17.6174
420071	18.2878	19.4482	20.3902	19.3836
420072	12.6013	13.8550	15.0158	13.8117
420073	19.2011	19.1604	19.8502	19.4076
420074	13.8038	16.9292	17.7050	16.1034
420075	16.2946	14.2931	12.8158	14.3372
420078	20.6818	20.7317	21.2688	20.9023
420079	18.7710	20.8639	21.0874	20.2636
420080	24.8321	22.3443	21.9968	22.9897
420081	20.4211	*	*	20.4211
420082	18.8848	20.4653	21.4326	20.2642
420083	23.3425	20.1472	22.6376	21.9902
420085	18.5502	19.9603	21.6791	20.1188
420086	19.3054	25.7179	20.2878	21.4636
420087	18.4016	19.1403	19.8388	19.1412
420088	17.9063	17.1938	19.9919	18.3046
420089	21.6608	20.2537	20.5360	20.7623
420091	18.5723	18.8687	20.3092	19.2195
420093	16.7734	17.4689	18.3902	17.5654
420094	32.6768	*	*	32.6768
430004	17.8435	18.5438	19.6344	18.6310
430005	15.8449	16.3059	16.4560	16.2068
430007	14.0586	14.1078	14.6331	14.2620
430008	16.7640	17.6640	18.1323	17.5240
430010	16.1093	17.1766	19.8191	17.5891
430011	16.4234	16.9848	17.4750	16.9703
430012	17.7809	17.2775	17.5713	17.5419
430013	17.2424	18.1338	18.4817	17.9391
430014	18.4417	16.8925	19.9484	18.3095
430015	16.4123	18.0019	18.2875	17.5236
430016	18.9715	19.4759	20.8850	19.7559
430018	14.9100	14.8854	16.2244	15.3323
430022	12.9532	13.4905	14.5118	13.6222
430023	11.6383	12.2331	16.2164	13.2302
430024	13.9942	15.4709	16.1801	15.3449
430026	10.8532	*	*	10.8532
430027	18.6367	19.1461	20.2591	19.2968
430028	16.7185	18.2312	17.1574	17.3521
430029	15.1010	16.6500	17.6986	16.5066
430031	12.4631	13.1258	12.4660	12.6792
430033	14.6423	15.3003	17.3652	15.6688
430034	12.8513	15.4064	14.2491	14.1740
430036	13.7807	13.6967	15.6258	14.3461
430037	15.9545	16.5368	18.1293	16.8632
430038	11.9419	13.7167	18.4078	14.2118
430040	13.3722	13.6745	14.4509	13.8057
430041	12.6235	13.1936	14.8816	13.4964
430043	13.4288	13.6908	14.9949	14.0204
430044	16.4488	18.4970	21.0823	18.5195
430047	15.6227	17.4956	17.9823	16.9377
430048	17.2589	18.3524	19.6010	18.3783
430049	14.4354	15.5381	15.2237	15.0640
430051	17.2139	17.0574	18.8070	17.6987
430054	13.5011	14.7251	14.8003	14.3524
430056	11.4117	11.7627	9.7578	10.9731

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
430057	15.1516	15.4390	17.2805	15.9601
430060	8.6409	9.0358	10.0176	9.2343
430062	10.8879	*	*	10.8879
430064	12.7394	14.4367	14.2184	13.7779
430065	12.7660	*	*	12.7660
430066	13.4380	14.3557	15.6660	14.4524
430073	14.9784	16.1133	15.3776	15.4839
430076	12.2452	12.7608	13.9883	12.9521
430077	17.7126	19.3012	19.8558	18.9586
430079	12.9780	13.6836	14.1815	13.5924
430087	10.4491	*	*	10.4491
430089	17.0065	17.8908	17.9790	17.6658
430090	*	21.5239	21.5974	21.5592
430091	*	19.2146	18.1567	18.5152
430092	*	*	21.3807	21.3807
430093	*	*	19.5013	19.5013
440001	15.3134	14.8713	15.5897	15.2550
440002	18.5411	19.1498	20.3740	19.3756
440003	17.4736	18.3658	19.3042	18.3967
440006	20.6559	19.6021	21.1072	20.4264
440007	7.7632	12.1230	14.8959	11.0241
440008	15.4701	17.2848	18.8994	17.1822
440009	15.4558	17.8424	17.4831	16.9676
440010	13.5118	19.9829	16.3283	16.4644
440011	17.1591	17.6948	18.3375	17.7161
440012	19.0606	15.9837	19.5537	18.2430
440014	14.6093	15.9195	16.1143	15.5705
440015	21.0884	18.2632	22.0659	20.4116
440016	14.9409	15.4097	16.2964	15.5583
440017	21.1258	19.6215	20.4426	20.3788
440018	18.2080	16.4115	17.4995	17.3550
440019	28.2242	20.0416	21.0768	22.6204
440020	15.5889	18.1154	17.4666	17.0702
440022	19.0214	15.8459	*	17.5909
440023	14.1410	15.4721	16.6111	15.3545
440024	18.1028	18.4432	18.4046	18.3183
440025	15.2826	15.8784	16.3140	15.8395
440026	22.9174	23.0550	23.2566	23.0549
440029	18.5183	19.4326	20.7050	19.5797
440030	15.5718	16.2941	16.9925	16.3267
440031	14.3023	15.5432	17.0211	15.6197
440032	13.5996	13.9775	13.8140	13.7931
440033	14.0409	14.5304	13.7328	14.1227
440034	17.9315	19.5470	19.5135	19.0190
440035	18.1578	18.9026	19.3034	18.7862
440039	19.3747	19.9439	21.6560	20.3432
440040	17.4965	16.3740	16.9275	16.9214
440041	13.6279	14.6621	14.9545	14.4249
440046	16.8798	18.1654	19.0756	18.0134
440047	17.0037	16.6646	17.8092	17.1528
440048	18.1449	19.4498	21.4993	19.5981
440049	16.7066	17.9292	20.8371	18.4663
440050	16.7627	19.1328	18.2511	18.0098
440051	14.9074	13.1901	16.0421	14.6532
440052	16.2693	16.6541	*	16.4546
440053	17.6873	18.5515	19.6494	18.6583
440054	12.3134	13.8716	13.3967	13.1942
440056	14.2534	15.9821	16.2742	15.4778
440057	12.7190	12.7925	13.7257	13.0446
440058	18.7381	18.8118	16.5104	18.0102
440059	17.5274	18.5418	19.6018	18.6049
440060	15.8599	18.0586	19.7916	17.7309
440061	16.8442	14.9708	24.0082	18.4685

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
440063	18.2923	19.3222	18.5737	18.7318
440064	17.6154	17.7652	18.8038	18.0538
440065	18.6943	18.5825	16.6540	17.9684
440067	22.0655	16.2811	17.1917	18.2178
440068	17.4513	19.4695	19.1569	18.6340
440070	15.0440	13.7035	14.0437	14.2715
440071	16.2691	17.0186	16.9416	16.7371
440072	16.7675	17.5995	19.1522	17.8026
440073	18.5576	19.1714	19.5554	19.1079
440078	13.0916	15.0849	16.0188	14.6728
440081	17.9702	18.3587	18.9886	18.4558
440082	23.0805	22.2857	20.3664	21.8599
440083	35.0978	14.8525	13.7423	17.4998
440084	13.3678	13.4378	13.7731	13.5305
440091	19.7250	19.6114	20.1065	19.8343
440100	13.9487	13.8437	14.7113	14.1637
440102	13.9575	14.3510	14.5500	14.2949
440103	19.2083	20.3052	18.6990	19.3857
440104	22.3883	22.4403	22.6754	22.4883
440105	16.0338	16.7131	17.1172	16.6050
440109	14.2491	16.0446	17.7443	15.8919
440110	15.9174	21.1716	17.4123	17.8783
440111	21.0682	23.2425	23.2254	22.5309
440114	13.6095	14.4997	15.0036	14.3318
440115	12.9668	17.4514	18.5457	16.2205
440120	18.2993	17.2384	16.3115	17.2831
440125	16.1067	15.6588	19.0514	16.9328
440130	16.6750	17.8223	17.4857	17.3264
440131	14.6752	15.5048	16.1214	15.4186
440132	15.9069	16.6553	16.8871	16.4950
440133	21.5116	21.5313	22.7184	21.8977
440135	20.9029	19.2010	22.2707	20.8388
440137	14.6966	14.5632	15.0070	14.7511
440141	12.4774	13.5308	15.9429	13.7977
440142	13.0059	15.7287	16.7797	15.0556
440143	17.8429	17.7821	18.2061	17.9416
440144	16.6666	17.6415	18.4330	17.5831
440145	13.6577	17.0608	18.3948	16.1716
440147	22.0069	21.4304	26.1464	23.0399
440148	17.6438	19.2435	19.4598	18.7842
440149	17.1496	16.6923	14.8350	16.2240
440150	13.0775	20.1411	20.0178	17.1910
440151	15.4250	17.4248	18.1216	16.9820
440152	17.8399	21.0287	22.7664	20.2196
440153	16.0954	16.7769	16.0572	16.3283
440156	19.6117	29.5557	21.0346	22.8749
440157	11.3982	16.9265	18.4249	15.5384
440159	17.6237	17.7158	20.9371	18.4872
440161	20.7643	21.8013	22.1611	21.5480
440162	14.4121	14.7637	*	14.5681
440166	18.1413	19.6684	19.2159	18.9985
440168	15.9513	18.6535	19.1509	17.9995
440173	18.4683	18.6402	19.1299	18.7524
440174	17.0080	17.3294	18.0865	17.4583
440175	17.6107	20.0802	15.5827	17.7347
440176	18.7529	18.0294	18.9159	18.5457
440180	17.3412	19.7773	20.4039	19.2011
440181	11.8471	16.4878	17.7709	15.0662
440182	20.3202	17.7487	19.7094	19.1341
440183	19.4374	22.7067	21.3465	21.1277
440184	18.0603	17.2037	16.8880	17.4646
440185	18.7286	19.3870	*	19.0562
440186	18.5312	19.3948	15.8016	17.9134

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
440187	16.2530	18.9713	15.3044	16.8551
440189	16.1906	*	18.5252	17.4309
440192	19.9669	19.0839	16.5173	18.5279
440193	18.3952	19.0811	18.2608	18.5816
440194	20.3343	19.8682	22.2384	20.8427
440197	23.1080	21.9618	21.3772	22.0839
440200	16.0619	17.9575	19.5226	17.9170
440203	16.6132	18.3400	16.2861	17.0710
440206	15.5462	16.4429	*	16.0270
440209	14.7466	*	*	14.7466
440210	12.3292	11.0218	11.0719	11.3670
440211	*	14.8972	*	14.8972
440212	*	17.0685	*	17.0685
440213	*	19.5760	*	19.5760
440214	*	*	28.0285	28.0285
440215	*	*	22.2928	22.2928
450002	19.9195	21.3749	21.4770	20.9126
450004	15.2751	16.6723	16.7850	16.2360
450005	15.5888	18.3600	16.6396	16.8103
450007	15.7536	16.9681	19.1910	17.3218
450008	15.7458	17.0832	17.6582	16.7901
450010	16.0790	16.5001	17.6677	17.0234
450011	18.0137	17.1942	20.5022	18.5856
450014	18.2173	17.9495	17.5550	17.8927
450015	18.4400	18.9895	20.0974	19.1233
450016	17.3054	18.4463	18.3456	18.0337
450018	20.4133	21.4788	22.8298	21.4884
450020	16.9661	17.8415	19.1153	18.0122
450021	22.6910	23.0843	21.7842	22.5219
450023	16.6408	16.0831	17.6360	16.7896
450024	16.5604	17.3518	18.5649	17.4769
450025	16.4396	17.0004	*	16.7280
450028	18.4287	18.8764	17.4971	18.2201
450029	17.6909	17.4716	17.5595	17.5741
450031	20.8992	22.2222	29.6945	23.8280
450032	15.2404	17.3317	13.9785	15.3652
450033	20.8634	19.7437	20.7772	20.4518
450034	18.9068	19.6721	18.7154	19.0969
450035	16.8132	20.0951	20.3500	19.0191
450037	18.6549	19.5411	19.8210	19.3526
450039	22.0811	19.8143	17.9888	20.0023
450040	17.5179	16.8534	19.6370	18.0669
450042	17.5906	19.8921	18.4417	18.6126
450044	21.0399	24.7961	20.1028	21.8870
450046	17.0917	18.6536	18.0851	17.8763
450047	13.9022	13.4486	16.9028	14.6102
450050	13.0037	14.7669	15.9701	14.4910
450051	20.0763	21.0236	20.2292	20.4528
450052	13.5278	13.8881	15.2911	14.2591
450053	17.3139	17.0467	14.3712	16.3666
450054	21.9835	22.8960	15.9388	20.5562
450055	14.8119	15.0433	15.8526	15.2415
450056	20.0008	21.8436	20.4781	20.7787
450058	16.9832	18.0967	17.4599	17.5079
450059	14.2072	15.2168	19.7037	16.2518
450063	13.8126	14.3815	12.7037	13.6024
450064	16.4165	17.4093	19.7682	17.8341
450065	19.6087	21.4934	23.3797	21.3723
450068	22.6924	22.8998	21.9406	22.5334
450072	17.3794	19.0111	18.0307	18.1442
450073	16.6168	17.1002	17.4642	17.0560
450078	13.4875	11.7265	13.2820	12.8188
450079	19.4899	21.0518	19.5823	20.0919

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450080	16.3147	17.4553	19.5691	17.8032
450081	16.1653	16.3448	17.5737	16.7023
450082	13.2952	16.1585	18.1087	15.9363
450083	20.1830	21.5884	20.8111	20.8940
450085	14.2167	18.3602	20.0085	17.2728
450087	21.4764	22.0273	21.8971	21.7995
450090	13.9101	15.0939	15.7102	14.9065
450092	15.7316	16.8260	17.9520	16.8805
450094	19.4249	21.3158	23.0087	21.3016
450096	16.6300	17.8813	18.6802	17.7158
450097	18.2740	19.5723	19.7187	19.2252
450098	15.4796	20.5754	19.1707	18.3853
450099	22.8834	19.2258	20.4181	20.6312
450101	16.9628	17.1330	18.1155	17.3801
450102	18.8465	18.6707	18.5587	18.6892
450104	15.9781	16.6744	16.9800	16.5575
450107	20.7359	25.1986	23.0798	22.8910
450108	16.1451	15.6324	15.2394	15.6277
450109	12.7654	13.8127	10.7641	12.1774
450110	21.4421	19.5821	*	20.4354
450111	19.2749	19.6350	*	19.4562
450112	14.7610	16.0441	14.3254	14.9837
450113	18.5356	20.9777	20.8306	19.9901
450118	15.8317	17.9053	*	16.9195
450119	18.3166	20.2853	20.1852	19.6454
450121	18.2278	20.4641	21.6525	20.0695
450123	19.1912	15.7618	14.1755	16.0237
450124	21.0925	22.7480	21.9767	21.9459
450126	17.4512	21.7233	21.4686	19.9524
450128	15.8881	18.2184	18.1446	17.4552
450130	17.8722	20.4156	17.4027	18.5777
450131	17.6163	19.2589	17.4168	18.0711
450132	18.0745	18.1713	16.8847	17.6996
450133	19.9259	23.6366	26.0763	23.0339
450135	20.8065	21.0306	22.0320	21.2622
450137	23.9555	22.4590	23.1148	23.1794
450140	18.0743	20.2280	17.2060	18.5255
450143	14.4623	14.5270	14.8917	14.6528
450144	16.3037	18.1121	18.7521	17.8369
450145	14.8441	15.6078	15.8542	15.4241
450146	14.2041	17.8572	15.5030	15.8115
450147	18.0664	18.9363	18.5236	18.5193
450148	22.0269	18.6758	24.1780	21.4997
450149	24.0005	19.7521	21.7219	21.7182
450150	15.2061	16.3719	17.8612	16.4235
450151	14.8373	15.2906	16.4209	15.5098
450152	17.3780	18.0061	17.7265	17.7015
450153	19.9447	19.4419	17.3002	18.8465
450154	13.1810	13.8731	13.9119	13.6623
450155	23.7678	11.5841	13.3456	14.7760
450157	14.6623	15.6371	15.3083	15.2158
450160	8.7503	16.6533	10.6852	11.1452
450162	22.1981	20.9560	21.9218	21.6852
450163	16.9811	17.5403	18.1128	17.5693
450164	20.0368	16.9741	17.7723	18.1030
450165	15.1561	13.9218	14.3250	14.4625
450166	10.2801	11.4772	11.0097	10.9389
450169	15.8793	13.1990	*	14.1674
450170	14.8131	14.2997	14.3234	14.4821
450176	16.3031	16.9674	17.2576	16.8653
450177	14.7280	14.9241	15.2440	14.9810
450178	16.7550	17.8508	16.0280	16.8828
450181	14.0192	15.5622	16.9427	15.5485

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450184	19.9674	21.1263	18.7419	19.9896
450185	13.0632	14.0714	11.1599	12.6084
450187	17.5702	16.6945	18.2036	17.4833
450188	13.7757	14.3938	15.1954	14.4624
450191	18.8023	20.1222	20.9512	19.9757
450192	19.3352	20.3795	21.2497	20.3207
450193	22.7325	23.1963	23.2623	23.0664
450194	19.1466	20.5187	20.4842	20.0547
450196	16.4929	17.1955	18.1011	17.2598
450200	17.3756	18.7387	19.2228	18.4203
450201	17.0548	16.9908	16.9500	16.9956
450203	18.6552	20.6712	19.0752	19.4944
450209	18.6566	19.0811	19.8943	19.1865
450210	14.2317	13.9758	16.5059	14.8500
450211	17.1433	17.9857	18.6419	17.9272
450213	18.4472	17.7631	18.3953	18.2239
450214	17.2465	19.0475	20.9959	19.0269
450217	11.6893	12.8457	12.7647	12.4509
450219	15.4207	15.3976	17.6884	16.1962
450221	16.9935	16.3700	15.0701	16.0556
450222	18.4542	20.3129	19.8967	19.5439
450224	22.8300	24.9046	16.2265	20.5869
450229	16.4116	16.4503	16.7853	16.5551
450231	17.7045	19.1564	18.8419	18.8309
450234	13.3012	16.1945	16.3955	15.4391
450235	13.4177	15.2332	16.1851	15.0198
450236	15.6774	16.6703	16.4957	16.3054
450237	17.3984	20.7930	18.0874	18.7189
450239	13.6376	17.1308	17.8401	16.0311
450241	14.8674	12.5675	16.4240	14.4148
450243	12.3626	11.9099	13.1754	12.4894
450246	17.9702	16.5478	16.7959	17.0548
450249	11.6279	12.0302	11.7658	11.8055
450250	14.9133	10.2844	13.6787	12.3052
450253	15.3542	12.2402	13.2177	13.4392
450258	13.2334	16.0466	16.7337	15.4196
450259	17.8488	*	*	17.8488
450264	13.8879	13.8929	14.5956	14.1447
450269	14.9334	12.3594	12.3957	13.0850
450270	12.7018	12.8381	14.1324	13.1772
450271	15.4998	16.6319	16.7831	16.3572
450272	17.9514	19.9331	18.4344	18.7713
450276	12.7053	13.1155	14.0745	13.3159
450278	13.7894	14.8291	15.2950	14.5985
450280	19.4926	22.2984	20.1523	20.6175
450283	13.8916	14.5664	15.1950	14.5306
450286	12.1212	*	*	12.1212
450288	15.9878	16.2502	18.3824	16.7799
450289	18.3478	20.3104	20.0002	19.5531
450292	19.5050	16.9693	16.1840	17.4483
450293	14.4281	16.0132	15.8531	15.4701
450296	20.6628	21.6000	22.3430	21.5410
450299	17.9678	21.5672	*	19.7778
450303	12.6720	12.4582	12.8996	12.6812
450306	13.3165	13.8216	14.3639	13.8801
450307	16.6779	16.4622	17.0691	16.7424
450309	16.2055	13.1480	11.4661	13.2592
450315	20.8043	22.8140	21.4684	21.6913
450320	19.6331	20.0946	20.6596	20.1159
450321	13.3932	13.1752	14.6055	13.7332
450322	12.4570	22.7667	29.1884	20.6852
450324	17.8697	17.7886	18.6228	18.0773
450327	16.0935	11.7511	13.3639	13.4001

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450330	18.4163	18.9425	19.8066	19.0827
450334	12.2721	12.8051	13.7850	12.9653
450337	17.4208	17.1073	25.1355	18.7580
450340	15.8519	17.6914	*	16.7663
450341	19.1828	18.9429	*	19.0666
450346	17.1038	17.5367	18.9475	17.8083
450347	17.6908	17.1099	19.2848	18.0094
450348	12.9414	13.9535	13.2741	13.3967
450351	15.9772	18.4116	18.7311	17.7343
450352	17.8528	18.7480	20.1871	18.9532
450353	15.0020	17.7539	16.0003	16.2513
450355	14.3182	11.9473	11.7765	12.5557
450358	21.2812	22.3235	23.2886	22.3172
450362	15.3536	15.8847	18.1747	16.4652
450369	15.1854	15.2233	14.4262	14.9370
450370	15.4368	12.6061	14.6709	14.1203
450371	11.8996	24.6339	16.0236	16.3341
450372	19.8589	20.0924	19.9926	19.9822
450373	17.5998	17.4183	17.9531	17.6605
450374	12.8264	13.6099	15.1750	13.8338
450378	23.1598	23.5789	23.4599	23.4221
450379	20.2756	22.7632	22.8756	21.9542
450381	15.6215	16.4166	15.2513	15.8628
450388	17.5561	19.2499	18.9920	18.6062
450389	18.1478	18.1797	18.6769	18.3421
450393	18.7387	20.2784	22.4992	20.3300
450395	16.6754	18.3768	17.5097	17.5123
450399	16.3066	15.7845	15.3491	15.8113
450400	14.0761	19.5379	18.6668	17.2665
450403	21.3691	20.1989	22.7969	21.4798
450411	14.0463	14.4832	14.8054	14.4468
450417	13.8517	13.4983	15.3591	14.2291
450418	20.5847	21.9161	21.9690	21.5007
450419	21.8196	20.6325	22.8505	21.7461
450422	24.5309	26.4848	28.0257	26.2815
450423	19.4352	22.7132	*	20.9607
450424	17.5658	18.9741	18.7478	18.4717
450429	11.3811	13.8723	*	12.4654
450431	16.2696	19.6304	20.8421	18.7034
450438	16.5461	19.5028	14.5873	16.7445
450446	21.9685	13.0986	20.7592	18.0346
450447	16.6124	18.0376	18.1815	17.5795
450451	19.6424	18.8948	18.1921	18.8786
450457	19.7689	24.7880	19.6569	21.1382
450460	14.2156	15.1765	14.5364	14.6270
450462	20.1347	22.6212	17.9464	20.1419
450464	13.4714	13.2931	15.5908	14.0563
450465	15.2203	15.5650	15.4731	15.4326
450467	15.6034	10.6184	16.8658	13.7380
450469	22.1012	19.6269	21.1652	20.9069
450473	14.1895	19.9761	19.7148	17.9827
450475	16.2489	16.3404	16.4898	16.3610
450484	19.5869	16.8131	18.2663	18.1595
450488	18.6813	19.3457	19.2173	19.0899
450489	14.5747	9.9326	15.8517	12.9537
450497	11.9242	15.0886	15.1284	14.0029
450498	12.0249	13.8551	14.4713	13.5076
450508	19.8722	18.8069	18.7309	19.1164
450514	22.2791	21.3243	20.0144	21.2387
450517	12.8702	27.8815	14.3191	16.6822
450518	19.0112	19.8116	21.4888	20.0420
450523	20.2589	20.0792	20.8894	20.3958
450530	22.9101	22.8623	21.1634	22.2676

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TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450534	24.0835	19.9376	20.1520	21.2600
450535	21.2659	19.6645	21.0513	20.6461
450537	21.7432	20.8438	20.1161	20.8690
450538	19.6864	*	*	19.6864
450539	14.2536	16.4921	17.7681	16.1703
450544	19.3848	23.9283	23.8271	21.9636
450545	16.9674	19.5558	20.2823	18.9428
450547	13.8074	14.8248	17.8756	15.6065
450551	13.9069	16.9439	16.6237	15.8128
450558	20.0164	22.2574	20.7404	21.0120
450559	13.4572	*	*	13.4572
450561	16.8162	*	*	16.8162
450563	30.3744	19.9218	21.3788	22.6596
450565	16.4545	16.2652	17.3803	16.7063
450570	17.7135	18.9532	19.0336	18.5591
450571	16.9705	17.5598	18.2784	17.6264
450573	15.6698	12.2502	17.0111	14.8796
450574	14.2411	14.5965	14.6128	14.4845
450575	19.0613	19.3925	22.5621	20.3955
450578	16.8731	15.4783	17.7906	16.6611
450580	15.3581	15.8321	16.5934	15.9704
450583	15.5040	15.6580	14.4411	15.1895
450584	13.3747	14.2321	14.7876	14.1390
450586	12.8439	14.3773	13.7155	13.6793
450587	17.1124	17.0230	18.5905	17.5554
450591	17.9151	17.8981	17.7442	17.8480
450596	14.8232	22.5420	21.6729	19.1117
450597	16.1797	17.0776	17.6667	16.9974
450603	12.7682	11.6442	23.5572	15.3844
450604	15.4790	16.4535	17.2702	16.4273
450605	20.1541	21.1400	19.4580	20.2362
450609	10.7323	15.9753	16.7508	14.5094
450610	16.7464	18.9924	19.2006	18.3347
450614	13.8304	17.9853	16.5754	15.9153
450615	14.7457	14.8562	15.1188	14.9156
450617	19.5381	20.3387	20.8919	20.3006
450620	13.7063	15.8380	16.0987	15.2421
450623	21.8275	22.1950	15.3964	19.4094
450626	19.7896	18.1673	18.4349	18.7617
450628	16.8345	20.5611	18.6078	18.6471
450630	19.1904	21.6876	20.9444	20.5676
450631	17.5555	20.0417	21.5359	19.4585
450632	12.7295	11.7587	13.9147	12.7814
450633	20.7209	19.5183	19.3340	19.8372
450634	20.2932	23.5333	22.9877	22.3295
450638	19.6968	23.1437	22.1704	21.6228
450639	20.3050	23.1936	20.9189	21.4283
450641	13.5049	16.5125	15.7019	15.1464
450643	17.4268	18.7054	16.8152	17.6481
450644	20.7904	23.6587	22.7721	22.2903
450646	19.9866	19.8274	18.0467	19.2248
450647	22.4196	24.7981	24.1058	23.8008
450648	14.7541	14.8488	14.8968	14.8343
450649	15.8156	16.4496	16.6577	16.3245
450651	20.7304	22.7664	22.6977	22.1014
450652	16.6461	13.4389	17.2445	15.4912
450653	19.2847	18.1834	19.2349	18.8580
450654	13.8833	14.5258	14.5423	14.3223
450656	18.7328	17.6723	18.2606	18.1968
450658	15.1477	16.2657	17.2630	16.2787
450659	20.5609	22.2550	23.0108	21.9106
450661	20.2196	19.7160	18.9071	19.5857
450662	18.6797	18.2284	18.5812	18.4954

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450665	15.4395	15.2015	14.3068	14.9933
450666	19.3456	20.3248	20.2549	19.9584
450668	18.7218	20.6965	21.0972	20.1590
450669	22.2832	21.7632	21.4199	21.7939
450670	18.2030	16.8893	20.2632	18.5133
450672	21.2079	21.8559	21.4175	21.4876
450673	13.8444	13.9620	12.4735	13.3217
450674	20.6151	22.2796	22.2305	21.7310
450675	23.2587	22.4961	21.4164	22.2737
450677	18.7905	22.6839	20.6556	20.7200
450678	20.7453	23.2617	24.1301	22.6596
450683	21.1748	20.9143	26.4385	22.7231
450684	22.8552	19.7005	21.9962	21.3850
450686	15.0122	16.5661	16.4632	15.9861
450688	20.8988	19.6250	20.1831	20.2348
450690	22.4118	21.6578	22.4707	22.1725
450694	18.4917	17.4758	17.4643	17.7613
450696	17.5701	24.9636	*	21.1885
450697	15.9259	18.8405	19.4949	18.0008
450698	14.3983	14.6680	15.2170	14.7605
450700	15.1153	14.6421	15.9050	15.2506
450702	21.0157	20.8223	*	20.9141
450703	18.8029	*	*	18.8029
450704	21.6236	20.9821	20.7987	21.1724
450705	22.3175	30.0116	20.5505	24.0294
450706	21.3777	21.2072	22.0884	21.5769
450709	19.7741	20.8889	22.1490	21.0078
450711	18.2350	19.8126	19.3400	19.1455
450712	16.8942	13.6240	15.9298	15.4007
450713	23.6009	20.8065	21.5813	21.8464
450715	19.7719	22.0413	22.5711	21.5401
450716	19.9871	20.5544	20.9088	20.4817
450717	19.4546	20.7192	20.6551	20.2618
450718	19.0679	19.6886	22.1765	20.3069
450723	19.7044	19.7563	20.0191	19.8245
450724	20.0667	20.3235	20.3706	20.2569
450725	19.5572	*	*	19.5572
450727	17.7508	13.5458	17.0205	15.9095
450728	12.9277	17.5284	19.8308	16.6330
450730	20.9129	22.0819	23.0054	22.0459
450733	20.3718	20.7693	20.0619	20.4133
450735	8.0014	13.8767	*	10.0108
450742	20.7775	22.7655	21.8392	21.8145
450743	15.9493	18.8937	19.6015	18.1561
450746	20.7534	12.7904	30.2677	19.9077
450747	17.3842	19.2585	20.3914	18.9599
450749	12.9542	16.2130	19.1488	16.2577
450750	14.7207	14.6914	13.8098	14.4310
450751	22.2491	21.2198	18.8616	21.0697
450754	14.8896	16.0860	16.6057	15.9050
450755	14.7070	17.9904	18.0760	16.8948
450757	13.9636	13.8675	14.9434	14.2422
450758	18.6513	21.8669	19.0221	19.8347
450760	18.0690	17.4852	19.2225	18.2582
450761	11.1444	13.6152	15.7681	13.3382
450763	17.5603	18.2123	18.6092	18.1083
450766	21.8103	22.4348	23.3879	22.5926
450769	13.6183	14.5858	18.4163	15.2554
450770	16.8250	16.5458	19.0183	17.4436
450771	21.5814	22.4542	20.4326	21.4743
450774	16.5198	17.9964	16.2948	16.9482
450775	19.9651	19.8897	21.3504	20.4169
450776	10.1953	15.7750	13.8230	13.0171

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
450777	19.5923	21.0682	19.0380	19.9747
450779	22.9697	21.4546	20.8027	21.5263
450780	15.2800	19.1498	18.9543	17.5846
450785	18.5475	18.4976	*	18.5211
450788	20.9806	19.1463	19.0680	19.4275
450794	18.3981	18.2229	*	18.3485
450795	14.1682	16.6494	22.5753	17.9737
450796	17.4472	16.5362	19.2059	17.6627
450797	18.5901	15.9188	16.4923	16.8594
450798	9.2165	9.4634	*	9.3327
450801	16.6095	17.5669	17.9548	17.3668
450802	18.9018	19.9168	17.1435	18.5477
450803	16.2047	18.3767	21.6653	19.3492
450804	20.2223	19.4846	19.0893	19.5891
450807	13.2256	11.3192	10.7200	11.6398
450808	45.4728	16.9915	17.4917	21.1577
450809	19.0266	20.0202	19.5101	19.5395
450811	18.3847	19.0961	19.9168	19.1389
450812	20.7383	*	*	20.7383
450813	*	15.9166	11.2807	13.4305
450815	*	*	21.2741	21.2741
450819	*	*	16.5521	16.5521
450820	*	*	25.8653	25.8653
450822	*	*	24.2740	24.2740
460001	20.6336	21.7996	22.2735	21.5846
460003	20.5958	20.0452	22.6289	21.0329
460004	20.8196	21.3744	21.7234	21.3231
460005	17.5818	19.7069	22.5252	19.8732
460006	19.6485	20.6252	21.0700	20.4918
460007	20.5677	20.8026	21.1773	20.8773
460008	21.0338	18.8661	19.1153	19.6864
460009	21.1084	21.9016	22.5295	21.8515
460010	21.2473	21.9830	22.4948	21.9354
460011	16.7114	18.8660	19.7731	18.3715
460013	20.3331	20.7326	20.3976	20.4959
460014	19.5465	18.3865	18.5370	18.7488
460015	20.0987	20.6593	21.0470	20.6197
460016	18.0791	18.2408	21.9105	19.2998
460017	26.0310	17.7103	18.9929	19.9984
460018	16.8566	17.6235	17.0063	17.1606
460019	17.3683	16.2671	17.8690	17.1417
460020	17.0271	17.3467	17.2663	17.2239
460021	20.2613	21.0470	21.5174	20.9913
460022	18.2100	20.1534	21.3614	19.7210
460023	21.3321	22.3535	22.9265	22.2381
460024	13.0279	*	*	13.0279
460025	12.5083	19.4247	17.3494	16.5301
460026	17.3431	19.9241	20.2577	19.0203
460027	20.8331	21.8868	22.2955	21.6637
460029	17.2501	20.5154	20.8366	19.2190
460030	17.2196	17.6071	17.1705	17.3275
460032	19.5474	21.1006	21.4832	20.7171
460033	15.7233	19.5372	19.2664	18.1972
460035	14.2802	16.0021	16.1685	15.4874
460036	22.3788	23.5893	23.4573	23.1384
460037	18.7665	18.6850	17.7399	18.3920
460039	24.4781	24.9134	24.4808	24.6217
460041	21.6926	21.0623	20.2035	20.9715
460042	17.8455	18.8814	19.5662	18.7473
460043	23.8970	24.4779	23.2819	23.8380
460044	20.6897	21.4696	21.8485	21.3516
460046	17.1085	18.2224	*	17.6742
460047	21.3843	23.0433	22.7384	22.4725

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
460049	18.8206	19.6483	20.8283	19.8892
460050	26.2485	*	*	26.2485
460051	20.9797	19.4761	22.1758	20.8643
460052	*	*	19.8961	19.8961
470001	19.6108	20.2299	21.3817	20.4021
470003	22.5949	23.6949	21.6305	22.6336
470004	18.0952	16.8842	18.1879	17.7051
470005	21.5151	21.9191	23.1808	22.1962
470006	18.3898	17.8699	20.2829	18.8123
470008	19.4136	19.6069	20.1969	19.7378
470010	19.4652	20.2961	21.0616	20.2790
470011	21.2014	21.7675	22.2415	21.7386
470012	18.5162	18.5339	18.9444	18.6579
470015	19.2552	19.5366	20.2125	19.6399
470018	20.4161	21.5426	21.2406	21.0610
470020	18.9884	20.6643	21.5688	20.4558
470023	20.6391	20.4511	21.7139	20.9439
470024	20.4087	20.8510	21.9807	21.0777
490001	24.7604	21.9755	20.0570	22.0422
490002	12.9871	15.2287	15.7365	14.6222
490003	18.0034	19.1040	20.3237	19.1299
490004	18.7731	19.2126	19.7074	19.2382
490005	16.9087	20.5517	21.3318	19.6257
490006	15.2276	15.9537	12.3253	14.5928
490007	18.4330	18.7740	19.9391	19.0604
490009	22.9513	23.9344	23.7659	23.5499
490010	18.5780	21.7424	*	19.9381
490011	18.7508	18.6071	19.3983	18.9085
490012	13.7788	15.9973	15.2965	15.0022
490013	16.9324	17.3318	18.2396	17.5085
490014	24.5557	25.8315	23.5266	24.6242
490015	19.3608	19.6363	20.0667	19.6821
490017	17.3152	18.4361	19.4810	18.4236
490018	17.9433	18.3435	18.5508	18.2858
490019	17.5309	19.6178	21.0024	19.4180
490020	17.6655	18.5691	18.9621	18.4232
490021	19.4490	19.3945	20.0496	19.6794
490022	20.7223	21.2183	22.9170	21.6052
490023	18.9587	20.6694	21.5683	20.4224
490024	16.8904	17.7221	18.4314	17.8400
490027	14.4234	16.2761	16.7556	15.8360
490030	10.5029	9.1789	8.6446	9.5559
490031	15.8213	14.9539	16.0003	15.5875
490032	21.5592	22.4262	22.0162	21.9790
490033	18.3265	21.1723	19.2908	19.5511
490037	15.9704	16.3759	17.0113	16.4399
490038	15.7099	21.0218	17.6324	17.9048
490040	22.5237	22.7061	23.9490	23.0684
490041	16.5542	18.3589	20.8247	18.4498
490042	15.2717	16.4666	17.0972	16.2668
490043	20.6775	22.1574	21.5808	21.5222
490044	17.6282	18.3137	19.7842	18.6148
490045	19.6325	20.5468	20.6436	20.2902
490046	18.6112	18.4825	19.5729	18.9042
490047	17.1631	25.0438	17.5833	19.3625
490048	17.8907	18.4361	19.5417	18.6005
490050	22.7129	23.0729	23.3668	23.0530
490052	16.9363	16.8600	16.4787	16.7609
490053	15.6883	15.6996	16.8410	16.1062
490054	15.5516	15.4734	19.5780	16.7024
490057	19.0668	19.9210	20.3160	19.7770
490059	20.3744	20.8662	21.4801	20.8999
490060	19.2006	17.6308	18.5917	18.4363

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
490063	28.2527	28.6536	31.0113	29.3929
490066	16.5024	20.6972	15.9322	17.5889
490067	17.1922	17.0195	17.8487	17.3549
490069	15.6986	17.3297	19.9963	17.6603
490071	19.4701	21.8879	23.3511	21.4480
490073	26.1420	20.7960	26.0957	24.1488
490074	19.3417	*	*	19.3417
490075	19.1906	18.6983	19.0566	18.9744
490077	19.7866	21.3670	22.6504	21.2469
490079	16.4379	17.0815	17.7016	17.0749
490083	16.6406	*	*	16.6406
490084	16.3846	16.7834	18.0555	17.0646
490085	16.3979	17.4584	17.6158	17.1539
490088	15.5982	16.4362	17.9141	16.6068
490089	15.8618	17.7692	18.2290	17.2642
490090	16.2785	17.0199	17.4735	16.9381
490091	19.9949	20.8734	25.0272	21.8088
490092	15.6893	16.9533	16.7502	16.4464
490093	16.4767	17.3711	17.8275	17.2502
490094	16.7880	18.9204	22.3033	19.3562
490095	18.2495	*	*	18.2495
490097	15.8586	15.5780	16.9518	16.0789
490098	14.6971	15.1403	16.0488	15.2544
490099	16.8667	17.9665	18.3985	17.7293
490100	17.2189	22.5010	*	19.8823
490101	25.0907	24.7616	23.5502	24.4252
490104	28.4910	25.6889	27.6495	27.0461
490105	18.2461	18.5765	21.4428	19.2491
490106	16.9117	17.6596	22.1448	18.3912
490107	22.4054	23.5240	22.9283	22.9660
490108	19.7478	20.2112	24.1232	21.0559
490109	21.1589	23.6620	25.9475	23.4402
490110	15.8408	16.5131	18.1561	16.8181
490111	17.3453	17.1768	17.8510	17.4580
490112	20.5239	21.4532	22.0815	21.3493
490113	23.0840	23.2235	23.9043	23.4071
490114	16.9083	17.3047	18.0359	17.4375
490115	17.1023	16.5203	23.9711	20.3158
490116	16.4436	16.6170	17.2040	16.7676
490117	13.8429	14.0104	14.7944	14.2244
490118	20.8707	21.4674	21.5687	21.3058
490119	17.8686	17.9147	18.6046	18.1353
490120	19.9810	19.3707	20.5777	19.9742
490122	23.9695	23.8801	25.2027	24.3250
490123	16.8505	17.7461	19.3056	18.0001
490124	19.3616	22.0884	21.3818	20.8857
490126	18.2276	18.6844	20.4294	19.0254
490127	14.4815	16.0516	16.5993	15.6547
490129	27.4701	22.5885	28.6868	25.1130
490130	16.2779	16.4322	17.6943	16.7915
490132	17.0204	18.6570	18.4671	18.0649
500001	21.3476	22.1896	23.4901	22.3320
500002	21.0375	21.6332	19.8476	20.7811
500003	24.3055	24.2814	24.4333	24.3392
500005	23.4808	22.3955	21.7512	22.5379
500007	22.4269	26.0599	21.9911	23.4148
500008	24.1930	25.3064	25.9291	25.1336
500011	25.1836	24.0162	24.6554	24.5938
500012	22.2815	20.7032	24.2799	22.3541
500014	23.9276	24.3419	24.0990	24.1249
500015	23.2435	23.9297	24.9923	24.0554
500016	23.9034	24.3938	24.9439	24.4287
500019	22.3668	22.4213	23.2054	22.6470

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
500021	24.4622	25.9198	27.6490	25.9957
500023	27.1892	26.6535	27.1025	26.9568
500024	24.0453	23.7472	26.6452	24.7736
500025	23.9557	26.4810	24.4825	24.9695
500026	23.3491	23.8005	26.9884	24.7238
500027	25.0529	22.2158	20.9576	22.6384
500028	18.8588	19.2675	18.9556	19.0337
500029	16.8083	17.9237	18.5042	17.7373
500030	24.1321	24.9039	26.3828	25.1714
500031	23.3659	29.2707	23.6099	25.1784
500033	21.3906	22.3527	22.5462	22.1428
500036	21.8950	22.1096	23.6333	22.5254
500037	19.6803	20.7139	21.4059	20.6062
500039	23.3211	23.8918	24.0007	23.7403
500041	24.8556	23.9608	24.9237	24.5799
500042	22.1286	22.9125	*	22.5386
500043	20.2509	20.9459	22.0466	21.0230
500044	23.1128	23.3364	24.2212	23.5535
500045	22.0982	20.8881	24.0526	22.2906
500048	19.3029	22.1906	20.3207	20.5960
500049	22.9534	24.0489	24.5997	23.8657
500050	20.9445	22.0065	22.6563	21.9092
500051	24.4769	24.8203	25.9447	25.1087
500053	22.0515	23.9397	22.8399	22.9429
500054	22.9024	22.8829	23.8089	23.1889
500055	22.8769	23.7446	23.8622	23.5097
500057	18.0424	18.2737	19.0479	18.4516
500058	23.3984	24.7882	24.1106	24.0962
500059	22.5412	23.3506	26.6270	24.1016
500060	23.5360	25.0233	28.3655	25.4628
500061	20.3957	21.7013	20.8624	20.9851
500062	19.4607	18.6329	19.0557	19.0333
500064	24.5283	25.5748	26.7000	25.6273
500065	21.4254	21.9308	23.5671	22.3106
500068	18.6960	19.6574	19.2638	19.2003
500069	20.6262	21.3592	21.4542	21.1522
500071	19.3810	19.1906	19.1428	19.2439
500072	24.4599	25.3928	25.2001	25.0228
500073	21.4303	21.2469	21.7698	21.4835
500074	18.6506	18.9679	19.5981	19.0849
500077	23.2056	22.8536	23.9410	23.3357
500079	22.9809	24.2036	23.1041	23.4248
500080	13.8000	15.6630	18.3883	15.5897
500084	22.2169	23.4032	24.4044	23.3798
500085	28.6121	21.4403	20.4517	22.7948
500086	22.3132	23.3288	22.8829	22.8469
500088	23.6988	23.2701	24.7822	23.9172
500089	17.9399	18.7080	19.7166	18.7736
500090	16.3297	16.1576	20.4429	17.2562
500092	17.2881	16.7913	19.2028	17.7527
500094	18.1080	18.5835	15.7866	17.6577
500096	20.9580	21.0151	23.3564	21.7716
500097	20.8010	19.7706	20.8774	20.4568
500098	12.9935	16.3511	15.2040	14.9340
500101	19.4498	19.7337	15.8000	18.3994
500102	20.3321	20.9389	21.8963	21.0615
500104	22.5849	22.8154	24.9389	23.3843
500106	18.7087	18.6041	19.1465	18.7914
500107	17.2987	18.1201	17.9489	17.8064
500108	27.2126	26.2939	28.6229	27.3944
500110	21.4053	21.4553	22.9775	21.9505
500118	22.9245	23.8397	24.8034	23.8697
500119	21.5704	22.4373	22.1192	22.0436

* Wage data not available for the provider that year.
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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
500122	21.9135	22.4268	23.5264	22.6230
500123	19.5855	20.3181	19.6646	19.8819
500124	24.1473	23.2836	23.7742	23.7287
500125	16.6272	15.1112	14.7910	15.5165
500129	23.5952	26.1575	25.4685	25.1115
500132	19.3567	15.6717	23.1822	19.3937
500134	20.9570	17.7457	17.2430	18.5700
500139	20.8816	22.2297	22.3022	21.8369
500141	22.9358	23.8838	29.9695	25.5485
500143	17.6031	18.0343	18.2570	17.9797
500146	17.8558	21.6003	*	19.6218
510001	17.8282	19.1492	20.0429	18.9855
510002	17.3409	20.1527	17.0646	18.0884
510005	14.4330	14.2503	13.8621	14.1872
510006	17.8821	18.7313	19.9609	18.8717
510007	20.2483	21.2729	21.7064	21.0952
510008	17.3653	18.3296	19.0513	18.2388
510012	16.5037	15.8390	15.6089	15.9887
510013	16.6194	17.8527	19.5798	17.9628
510015	14.7904	14.9039	16.7310	15.5192
510016	12.0276	*	*	12.0276
510018	16.4757	18.5269	18.5358	17.8403
510020	12.6472	13.1837	14.1211	13.3435
510022	19.8375	20.1763	21.5770	20.5146
510023	15.9417	16.0129	16.7777	16.2444
510024	18.7982	19.0941	18.7461	18.8794
510026	13.4586	13.6888	13.7952	13.6491
510027	17.5759	17.2900	18.5945	17.8135
510028	20.7306	20.0628	19.9208	20.2198
510029	17.0519	17.7124	18.4668	17.7625
510030	18.3137	17.4198	17.7603	17.8189
510031	18.4887	28.6673	18.6341	21.0020
510033	18.8061	18.4082	18.4718	18.5670
510035	18.6471	16.5007	18.3164	17.7425
510036	13.1995	13.4559	13.8786	13.5021
510038	14.3433	15.8132	15.5576	15.2710
510039	16.0555	16.9398	17.1461	16.7060
510043	14.2872	14.0662	13.1308	13.8129
510046	17.7320	17.3821	18.5896	17.9120
510047	19.1202	19.8963	20.8101	19.9042
510048	20.3734	21.0407	17.1647	19.5052
510050	16.5681	16.9136	18.4036	17.3154
510053	15.5856	16.1036	17.5798	16.4010
510055	22.8376	23.7248	24.1069	23.5675
510058	17.9786	18.4156	18.2634	18.2213
510059	16.7732	16.5854	16.1044	16.5068
510060	15.6581	17.5594	*	16.5969
510061	14.2227	13.8204	14.1968	14.0767
510062	17.6276	19.3881	18.1588	18.4173
510065	14.5882	*	*	14.5882
510066	12.7164	12.2943	*	12.5091
510067	18.1079	16.7161	17.3067	17.3634
510068	16.2864	18.7938	14.3582	16.2743
510070	16.3616	18.5146	18.4252	17.8444
510071	16.2390	17.2148	18.0278	17.1797
510072	17.6579	15.6262	15.9257	16.4174
510077	16.4111	18.0668	18.2947	17.6316
510080	14.7966	17.4485	16.3453	16.1690
510081	13.0020	13.6359	11.9701	12.8648
510082	13.6905	17.4538	13.5946	14.7307
510084	12.4820	17.2395	13.5339	14.4076
510085	18.6367	17.5624	18.5207	18.2217
510086	13.7937	13.4763	14.2241	13.8304

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
510088	*	*	14.8854	14.8854
520002	18.3521	19.7447	19.6755	19.2773
520003	16.4334	17.1248	18.7956	17.5028
520004	18.1744	19.6512	20.4591	19.4206
520006	20.4446	21.5313	21.4884	21.1400
520007	13.1087	16.2001	18.4629	16.0134
520008	22.8024	22.8024	24.9395	23.5372
520009	18.5094	18.6002	21.3967	19.4603
520010	20.3447	22.7703	22.3311	21.8215
520011	20.3797	20.7410	21.5223	20.8830
520013	21.6289	20.3965	20.5944	20.8585
520014	16.3989	17.1646	18.0841	17.1764
520015	18.3185	18.6078	19.7672	18.9031
520016	13.2889	17.3018	18.4320	16.1862
520017	19.3179	19.6008	19.4780	19.4685
520018	18.6441	21.1941	20.5761	20.1814
520019	18.3143	19.5440	20.9164	19.5698
520021	20.0355	21.3471	21.9531	21.1390
520024	14.6107	14.0175	14.4750	14.3609
520025	18.1086	18.2430	20.3838	18.8661
520026	19.8131	21.5453	20.8546	20.7335
520027	18.9085	19.9324	19.3257	19.4032
520028	19.1370	21.2852	21.5674	20.6109
520029	16.7520	19.5750	21.4197	19.2161
520030	20.0043	20.5039	20.8529	20.4556
520031	18.7066	20.4814	20.9875	19.9520
520032	17.9007	19.5697	20.1439	19.2148
520033	18.8906	19.2954	20.2520	19.4725
520034	16.6858	17.1282	20.4307	18.0336
520035	17.0997	18.9452	18.7135	18.2608
520037	20.0516	20.6686	21.4693	20.7219
520038	17.7074	19.6294	20.6130	19.3169
520039	19.5990	20.7641	23.3687	21.1069
520040	20.7420	20.4677	20.4895	20.5693
520041	15.3666	17.1959	17.5718	16.7004
520042	17.6577	18.5843	18.9667	18.4230
520044	17.7932	18.4014	19.1877	18.4535
520045	19.6736	20.5917	20.7203	20.3442
520047	17.8702	18.3048	20.3487	18.7633
520048	19.1712	20.6583	19.5238	19.7870
520049	19.5727	20.3559	20.1667	20.0444
520051	19.7416	21.6497	23.1309	21.4330
520053	16.4887	17.3945	18.0851	17.3336
520054	15.9873	15.1747	16.6782	15.9073
520057	18.3186	19.0872	19.6305	19.0102
520058	18.1264	19.7283	21.2500	19.7133
520059	19.8530	20.9913	21.5796	20.8254
520060	17.1675	17.9258	18.7639	17.9403
520062	17.8000	19.1482	19.7038	18.8681
520063	20.7744	19.6136	20.5262	20.3055
520064	21.4586	22.7423	22.0878	22.0905
520066	22.4419	22.8837	23.9506	23.0411
520068	18.0798	18.9943	19.6855	18.9053
520069	17.9133	20.2934	20.1770	19.3716
520070	17.8192	18.5938	19.2094	18.5389
520071	18.7861	18.7304	19.1628	18.8949
520074	18.6923	20.4601	20.9007	20.0036
520075	19.0891	19.8457	20.5199	19.8188
520076	16.5072	17.6088	19.5360	17.8404
520077	15.5427	17.7830	18.7119	17.3266
520078	20.5559	21.3380	20.5439	20.8226
520082	16.7417	17.7405	*	17.1848
520083	22.5715	23.8849	23.5787	23.3411

* Wage data not available for the provider that year.
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*** The 3-year average hourly wage is weighted by salaries and hours.

TABLE 2.—HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEARS 2000 (1996 WAGE DATA), 2001 (1997 WAGE DATA) AND 2002 (1998 WAGE DATA) WAGE INDEXES AND 3-YEAR AVERAGE OF HOSPITAL AVERAGE HOURLY WAGES—Continued

Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
520084	18.9475	20.8427	23.3327	20.9981
520087	19.3942	20.3624	20.6863	20.1537
520088	20.1529	20.6312	21.8931	20.8632
520089	20.6110	21.5456	22.1055	21.4053
520090	18.0026	18.9343	19.8314	18.9411
520091	20.0693	20.9927	20.9440	20.6686
520092	17.5577	17.6500	18.6248	17.9402
520094	19.7791	20.3611	20.6179	20.2438
520095	18.5066	20.3269	18.6425	19.1370
520096	19.2980	19.7757	20.6668	19.9365
520097	19.6470	20.2354	20.8016	20.2268
520098	20.0289	22.3348	23.4707	21.9054
520100	18.3788	18.3832	19.4788	18.7419
520101	17.8453	19.5186	19.9875	19.1542
520102	19.8354	20.1898	21.0138	20.3351
520103	21.2324	19.4809	20.0842	20.2050
520107	20.5441	20.3747	21.7907	20.8828
520109	18.6322	19.1303	19.7609	19.1753
520110	20.0319	20.4494	21.0055	20.5065
520111	17.2388	17.7834	17.7673	17.6163
520112	18.1827	19.1797	18.5706	18.6454
520113	20.5925	21.1485	21.8852	21.2341
520114	17.3799	16.6616	17.8476	17.2735
520115	17.3755	18.2980	19.2248	18.2555
520116	18.5698	19.8509	20.6922	19.7165
520117	17.4242	18.5414	18.3963	18.1365
520118	12.4422	4.2326	14.8626	13.8369
520120	15.6205	18.7437	*	17.3887
520121	17.5851	19.7305	20.8492	19.5992
520122	16.7552	16.2436	16.9335	16.6326
520123	17.4135	17.3980	17.7986	17.5610
520124	16.3902	17.2619	17.9205	17.1864
520130	15.1639	15.6845	17.1679	16.0030
520131	18.8043	18.7295	20.2591	19.2549
520132	17.2759	15.6379	18.1630	16.9564
520134	17.6094	18.0953	18.8150	18.1846
520135	14.4748	15.8246	17.3476	15.9083
520136	19.9935	19.8480	20.4404	20.0986
520138	20.8922	21.2260	22.5103	21.5421
520139	21.2797	20.9988	21.4042	21.2251
520140	21.4175	21.5207	22.0849	21.6757
520141	16.9543	*	*	16.9543
520142	17.7003	20.5858	21.9432	19.9586
520144	16.6231	18.5701	19.9120	18.4107
520145	17.2356	18.2654	18.7958	18.1015
520146	15.7318	17.9585	18.2370	17.3448
520148	16.9293	17.2421	19.1502	17.8057
520149	13.3032	14.1901	12.8928	13.4360
520151	18.0771	17.3267	18.7070	18.0230
520152	21.3333	19.5858	22.5980	21.0747
520153	15.4467	15.9753	17.0863	16.1441
520154	17.9229	18.5403	19.5994	18.6875
520156	19.8396	21.3377	20.9638	20.7243
520157	17.2784	17.1974	19.6008	18.0185
520159	18.7423	18.6760	17.7649	18.3871
520160	18.8444	19.4173	20.1406	19.4824
520161	18.5742	19.4905	18.7197	18.9334
520170	22.5033	21.5233	21.0637	21.6831
520171	15.7316	17.4560	18.0785	17.1053
520173	20.1410	21.3016	20.5744	20.6635
520177	21.7609	22.7221	22.9673	22.4954
520178	17.0411	18.6936	20.9010	18.7748
520188	*	13.9135	*	13.9135

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Provider No.	Average hourly wage FFY 2000	Average hourly wage FFY 2001	Average** hourly wage FFY 2002	Average*** hourly wage (3 years)
530002	17.5888	19.3273	21.1066	19.4048
530003	15.7813	16.2139	15.9523	15.9820
530004	16.1862	15.0497	13.3788	14.7758
530005	15.1487	13.3529	15.3255	14.5529
530006	19.3403	18.5894	19.1305	19.0082
530007	18.0601	18.5161	17.7897	18.1450
530008	22.9625	18.8349	19.0113	20.0471
530009	19.4478	22.5009	21.7795	21.2113
530010	18.9317	21.6092	14.1699	17.7467
530011	17.4412	18.7354	19.4606	18.5542
530012	19.4829	18.9923	21.1854	19.8564
530014	17.3158	18.0869	18.5571	17.9899
530015	22.6465	22.4568	23.4040	22.8118
530016	17.7084	18.1562	19.3205	18.4153
530017	13.7131	16.3478	17.7736	15.9421
530018	17.8699	18.3783	19.5986	18.6254
530019	16.7630	18.5430	20.1097	18.3351
530022	17.8781	18.5002	19.6136	18.7082
530023	20.7527	20.1948	20.0677	20.3449
530025	20.3200	21.2598	22.0300	21.1974
530026	18.9175	17.0118	19.8969	18.4992
530027	29.7722	18.1664	25.5067	22.9705
530029	17.7993	16.5092	19.3361	17.7626
530031	13.3775	18.3322	20.1734	17.2600
530032	20.2143	21.0361	20.0132	20.4281

*Wage data not available for the provider that year.
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TABLE 3A.—3-YEAR AVERAGE HOURLY WAGE FOR URBAN AREAS

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Urban area	Average hourly wage
Abilene, TX	17.6806
Aguadilla, PR	9.2769
Akron, OH	21.5297
Albany, GA	22.3923
Albany-Schenectady-Troy, NY	18.7002
Albuquerque, NM	19.8373
Alexandria, LA	17.4211
Allentown-Bethlehem-Easton, PA	21.3670
Altoona, PA	20.1636
Amarillo, TX	18.6302
Anchorage, AK	27.5223
Ann Arbor, MI	24.5218
Anniston, AL	18.1347
Appleton-Oshkosh-Neenah, WI	19.6303
Arecibo, PR	10.1229
Asheville, NC	19.9864
Athens, GA	21.2433
Atlanta, GA	21.9106
Atlantic-Cape May, NJ	24.4342
Auburn-Opelika, AL	17.4403
Augusta-Aiken, GA–SC	20.3525
Austin-San Marcos, TX	20.2151
Bakersfield, CA	20.7098
Baltimore, MD	20.9279
Bangor, ME	20.7547
Barnstable-Yarmouth, MA	29.3802

TABLE 3A.—3-YEAR AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Urban area	Average hourly wage
Baton Rouge, LA	18.6271
Beaumont-Port Arthur, TX	18.6898
Bellingham, WA	25.1714
Benton Harbor, MI	18.7937
Bergen-Passaic, NJ	25.5796
Billings, MT	21.1153
Biloxi-Gulfport-Pascagoula, MS	17.8351
Binghamton, NY	18.8043
Birmingham, AL	18.8368
Bismarck, ND	16.8910
Bloomington, IN	18.7924
Bloomington-Normal, IL	19.1663
Boise City, ID	19.6729
Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	24.5501
Boulder-Longmont, CO	21.3227
Brazoria, TX	18.3793
Bremerton, WA	23.7403
Brownsville-Harlingen-San Benito, TX	19.2833
Bryan-College Station, TX	18.7394
Buffalo-Niagara Falls, NY	20.6480
Burlington, VT	22.4607
Caguas, PR	10.2778
Canton-Massillon, OH	19.0700
Casper, WY	19.8564

TABLE 3A.—3-YEAR AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Urban area	Average hourly wage
Cedar Rapids, IA	19.1268
Champaign-Urbana, IL	19.9316
Charleston-North Charleston, SC	19.7508
Charleston, WV	20.0108
Charlotte-Gastonia-Rock Hill, NC–SC	20.3826
Charlottesville, VA	23.1481
Chattanooga, TN–GA	20.9509
Cheyenne, WY	17.9899
Chicago, IL	23.8495
Chico-Paradise, CA	21.8173
Cincinnati, OH–KY–IN	20.5080
Clarksville-Hopkinsville, TN–KY	17.8563
Cleveland-Lorain-Elyria, OH	20.7803
Colorado Springs, CO	20.7284
Columbia, MO	19.2453
Columbia, SC	20.5806
Columbus, GA–AL	18.4599
Columbus, OH	21.1200
Corpus Christi, TX	18.5130
Corvallis, OR	24.7413
Cumberland, MD–WV	18.4566
Dallas, TX	20.9635
Danville, VA	18.9744
Davenport-Moline-Rock Island, IA–IL	19.0733

TABLE 3A.—3-YEAR AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Urban area	Average hourly wage
Dayton-Springfield, OH	20.3789
Daytona Beach, FL	19.7030
Decatur, AL	18.8129
Decatur, IL	17.6940
Denver, CO	22.1471
Des Moines, IA	19.3257
Detroit, MI	22.6805
Dothan, AL	17.1181
Dover, DE	21.6106
Dubuque, IA	18.6795
Duluth-Superior, MN–WI	22.1000
Dutchess County, NY	22.7121
Eau Claire, WI	19.2432
El Paso, TX	19.8290
Elkhart-Goshen, IN	20.3382
Elmira, NY	18.4943
Enid, OK	18.0515
Erie, PA	19.4310
Eugene-Springfield, OR	23.8559
Evansville, Henderson, IN–KY	17.5189
Fargo-Moorhead, ND–MN	19.3632
Fayetteville, NC	19.0183
Fayetteville-Springdale-Rogers, AR	16.7888
Flagstaff, AZ–UT	22.9479
Flint, MI	23.9198
Florence, AL	16.9094
Florence, SC	18.9644
Fort Collins-Loveland, CO	22.4773
Fort Lauderdale, FL	22.1771
Fort Myers-Cape Coral, FL	19.9058
Fort Pierce-Port St. Lucie, FL	21.3915
Fort Smith, AR–OK	17.3369
Fort Walton Beach, FL	19.5052
Fort Wayne, IN	19.4642
Fort Worth-Arlington, TX	20.8053
Fresno, CA	21.9101
Gadsden, AL	18.7282
Gainesville, FL	23.1249
Galveston-Texas City, TX	21.5574
Gary, IN	20.5266
Glens Falls, NY	18.3428
Goldsboro, NC	18.4900
Grand Forks, ND–MN	19.5346
Grand Junction, CO	20.1153
Grand Rapids-Muskegon-Holland, MI	22.0624
Great Falls, MT	20.7979
Greeley, CO	21.0411
Green Bay, WI	19.9641
Greensboro-Winston-Salem-High Point, NC	20.0548
Greenville, NC	20.8376
Greenville-Spartanburg-Anderson, SC	19.7086
Hagerstown, MD	19.2372
Hamilton-Middletown, OH	19.7210
Harrisburg-Lebanon-Carlisle, PA	20.6541
Hartford, CT	24.9991
Hattiesburg, MS	16.3812
Hickory-Morganton-Lenoir, NC	19.9779
Honolulu, HI	25.2556
Houma, LA	17.3111
Houston, TX	20.7505
Huntington-Ashland, WV–KY–OH	21.1928
Huntsville, AL	19.2325
Indianapolis, IN	21.1949
Iowa City, IA	21.1012
Jackson, MI	19.7797
Jackson, MS	18.6455
Jackson, TN	19.1864
Jacksonville, FL	19.6584
Jacksonville, NC	16.8680
Jamestown, NY	17.1876
Janesville-Beloit, WI	20.9802
Jersey City, NJ	24.8343
Johnson City-Kingsport-Bristol, TN–VA	18.5293
Johnstown, PA	19.0781
Jonesboro, AR	16.9923
Joplin, MO	17.7354
Kalamazoo-Battlecreek, MI	22.4822
Kankakee, IL	20.0356
Kansas City, KS–MO	20.4279
Kenosha, WI	20.4490
Killeen-Temple, TX	19.9750
Knoxville, TN	19.0855
Kokomo, IN	19.9881
La Crosse, WI–MN	19.8516
Lafayette, LA	18.3710
Lafayette, IN	19.3581
Lake Charles, LA	16.7150
Lakeland-Winter Haven, FL	19.6666
Lancaster, PA	20.1757
Lansing-East Lansing, MI	21.3476
Laredo, TX	17.5925
Las Cruces, NM	18.7690
Las Vegas, NV–AZ	24.0639
Lawrence, KS	18.1884
Lawton, OK	19.7127
Lewiston-Auburn, ME	19.7957
Lexington, KY	18.9597
Lima, OH	20.0697
Lincoln, NE	21.3984
Little Rock-North Little Rock, AR	19.2004
Longview-Marshall, TX	18.7809
Los Angeles-Long Beach, CA	26.0786
Louisville, KY–IN	20.4511
Lubbock, TX	18.6166
Lynchburg, VA	19.4241
Macon, GA	19.2084
Madison, WI	21.9843
Mansfield, OH	18.7455
Mayaguez, PR	10.2295
McAllen-Edinburg-Mission, TX	18.1641
Medford-Ashland, OR	22.6022
Melbourne-Titusville-Palm Bay, FL	20.8444
Memphis, TN–AR–MS	19.0229
Merced, CA	21.5061
Miami, FL	21.8283
Middlesex-Somerset-Hunterdon, NJ	24.6509
Milwaukee-Waukesha, WI	21.3110
Minneapolis-St. Paul, MN–WI	23.8021
Missoula, MT	20.0852
Mobile, AL	17.4552
Modesto, CA	22.6578
Monmouth-Ocean, NJ	24.1662
Monroe, LA	18.0030
Montgomery, AL	16.5093
Muncie, IN	22.6571
Myrtle Beach, SC	18.6825
Naples, FL	20.9923
Nashville, TN	20.6183
Nassau-Suffolk, NY	30.2198
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	26.6547
New London-Norwich, CT	26.0295
New Orleans, LA	19.8085
New York, NY	31.0941
Newark, NJ	25.6043
Newburgh, NY–PA	23.8506
Norfolk-Virginia Beach-Newport News, VA–NC	18.4034
Oakland, CA	32.8350
Ocala, FL	20.5545
Odessa-Midland, TX	19.5695
Oklahoma City, OK	18.8746
Olympia, WA	23.8947
Omaha, NE–IA	21.4322
Orange County, CA	24.7717
Orlando, FL	20.8479
Owensboro, KY	17.7880
Panama City, FL	19.7652
Parkersburg-Marietta, WV–OH	17.9669
Pensacola, FL	18.0417
Peoria-Pekin, IL	18.6783
Philadelphia, PA–NJ	23.6329
Phoenix-Mesa, AZ	20.7971
Pine Bluff, AR	16.8497
Pittsburgh, PA	20.9887
Pittsfield, MA	22.3291
Pocatello, ID	19.9570
Ponce, PR	11.0089
Portland, ME	20.7444
Portland-Vancouver, OR–WA	23.9502
Providence-Warwick, RI	23.3619
Provo-Orem, UT	21.5657
Pueblo, CO	19.0481
Punta Gorda, FL	20.1726
Racine, WI	20.1696
Raleigh-Durham-Chapel Hill, NC	21.0052
Rapid City, SD	18.9541
Reading, PA	17.8899
Redding, CA	24.6813
Reno, NV	22.8615
Richland-Kennewick-Pasco, WA	24.4034
Richmond-Petersburg, VA	20.8459
Riverside-San Bernardino, CA	24.1711
Roanoke, VA	18.3527
Rochester, MN	24.8162
Rochester, NY	19.9290
Rockford, IL	19.3616
Rocky Mount, NC	19.3552
Sacramento, CA	26.0254
Saginaw-Bay City-Midland, MI	20.6078
St. Cloud, MN	21.3050
St. Joseph, MO	19.6144
St. Louis, MO–IL	19.5920
Salem, OR	21.8859
Salinas, CA	31.8419
Salt Lake City-Ogden, UT	21.4139
San Angelo, TX	17.4362
San Antonio, TX	18.2088
San Diego, CA	25.4124
San Francisco, CA	30.6978
San Jose, CA	29.9903
San Juan-Bayamon, PR	10.2202

TABLE 3A.—3-YEAR AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Urban area	Average hourly wage
San Luis Obispo-Atascadero-Paso Robles, CA	23.3041
Santa Barbara-Santa Maria-Lompoc, CA	23.3594
Santa Cruz-Watsonville, CA	30.3548
Santa Fe, NM	22.5866
Santa Rosa, CA	27.7113
Sarasota-Bradenton, FL	21.5493
Savannah, GA	20.9278
Scranton-Wilkes Barre-Hazleton, PA	17.9530
Seattle-Bellevue-Everett, WA	24.0679
Sharon, PA	17.4923
Sheboygan, WI	18.1442
Sherman-Denison, TX	19.5991
Shreveport-Bossier City, LA	19.4652
Sioux City, IA–NE	18.6963
Sioux Falls, SD	19.3356
South Bend, IN	21.7219
Spokane, WA	23.1813
Springfield, IL	18.6860
Springfield, MO	18.1563
Springfield, MA	23.1451
State College, PA	19.7984
Steubenville-Weirton, OH–WV	18.6797
Stockton-Lodi, CA	23.2294
Sumter, SC	17.6174
Syracuse, NY	20.3619
Tacoma, WA	25.1530
Tallahassee, FL	18.3753
Tampa-St. Petersburg-Clearwater, FL	19.5103
Terre Haute, IN	18.3195
Texarkana, AR-Texarkana, TX	17.9743
Toledo, OH	21.2747
Topeka, KS	19.8271
Trenton, NJ	21.9528
Tucson, AZ	19.1755
Tulsa, OK	18.4006
Tuscaloosa, AL	17.6510
Tyler, TX	20.1434
Utica-Rome, NY	18.2674
Vallejo-Fairfield-Napa, CA	28.6820
Ventura, CA	24.2443
Victoria, TX	17.9789
Vineland-Millville-Bridgeton, NJ	22.7446
Visalia-Tulare-Porterville, CA	21.3962
Waco, TX	17.7862
Washington, DC–MD–VA–WV	23.8268
Waterloo-Cedar Falls, IA	18.0820
Wausau, WI	20.4556
West Palm Beach-Boca Raton, FL	21.2892
Wheeling, OH–WV	16.9419
Wichita, KS	20.5727
Wichita Falls, TX	16.8194
Williamsport, PA	18.2904
Wilmington-Newark, DE–MD	23.9928
Wilmington, NC	20.9815
Yakima, WA	22.3174
Yolo, CA	21.5151
York, PA	18.9397
Youngstown-Warren, OH	20.9566
Yuba City, CA	23.0076
Yuma, AZ	20.4298

TABLE 3B.—3-YEAR AVERAGE HOURLY WAGE FOR RURAL AREAS

[Based on salaries and hours computed for Federal fiscal years 2000, 2001, and 2002]

Nonurban area	Average hourly wage
Alabama	16.1119
Alaska	26.3477
Arizona	18.5108
Arkansas	16.0724
California	21.4448
Colorado	19.2806
Connecticut	26.3210
Delaware	20.0732
Florida	19.2209
Georgia	17.8809
Hawaii	23.8315
Idaho	18.9021
Illinois	17.5886
Indiana	18.6071
Iowa	17.4515
Kansas	16.5492
Kentucky	17.3334
Louisiana	16.4052
Maine	18.8730
Maryland	18.9527
Massachusetts	24.6681
Michigan	19.4455
Minnesota	19.2586
Mississippi	16.1955
Missouri	16.7949
Montana	18.5783
Nebraska	17.6014
Nevada	20.3129
New Hampshire	21.4174
New Jersey [1]	.....
New Mexico	18.5917
New York	18.5351
North Carolina	18.3321
North Dakota	16.8478
Ohio	18.8435
Oklahoma	16.1793
Oregon	21.7904
Pennsylvania	18.4680
Puerto Rico	9.5092
Rhode Island [1]	.....
South Carolina	18.2462
South Dakota	16.6515
Tennessee	16.8980
Texas	16.3672
Utah	19.5943
Vermont	20.4055
Virginia	17.7547
Washington	22.5228
West Virginia	17.6572
Wisconsin	19.3313
Wyoming	19.1675

[1] All counties within the State are classified as urban.

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS

Urban area (Constituent counties)	Wage index	GAF
0040 Abilene, TX Taylor, TX	0.8118	0.8669
0060 Aguadilla, PR Aguada, PR Aguadilla, PR Moca, PR	0.4738	0.5996
0080 Akron, OH Portage, OH Summit, OH	0.9924	0.9948
0120 Albany, GA Dougherty, GA Lee, GA	1.0675	1.0457
0160 Albany-Schenectady-Troy, NY Albany, NY Montgomery, NY Rensselaer, NY Saratoga, NY Schenectady, NY Schoharie, NY	0.8597	0.9017
0200 Albuquerque, NM Bernalillo, NM Sandoval, NM Valencia, NM	0.9855	0.9900
0220 Alexandria, LA Rapides, LA	0.8137	0.8683
0240 Allentown-Bethlehem-Easton, PA Carbon, PA Lehigh, PA Northampton, PA	0.9443	0.9615
0280 Altoona, PA Blair, PA	0.9225	0.9463
0320 Amarillo, TX Potter, TX Randall, TX	0.8706	0.9095
0380 Anchorage, AK Anchorage, AK	1.2605	1.1718
0440 Ann Arbor, MI Lenawee, MI Livingston, MI Washtenaw, MI	1.1220	1.0820
0450 Anniston, AL Calhoun, AL	0.8360	0.8846
0460 Appleton-Oshkosh-Neenah, WI Calumet, WI Outagamie, WI Winnebago, WI	0.9203	0.9447
0470 Arecibo, PR Arecibo, PR Camuy, PR Hatillo, PR	0.4683	0.5948
0480 Asheville, NC Buncombe, NC Madison, NC	0.9307	0.9520
0500 Athens, GA Clarke, GA Madison, GA Oconee, GA	0.9956	0.9970
0520 [1] Atlanta, GA Barrow, GA Bartow, GA Carroll, GA Cherokee, GA Clayton, GA Cobb, GA Coweta, GA DeKalb, GA Douglas, GA Fayette, GA	1.0176	1.0120

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Forsyth, GA		
Fulton, GA		
Gwinnett, GA		
Henry, GA		
Newton, GA		
Paulding, GA		
Pickens, GA		
Rockdale, GA		
Spalding, GA		
Walton, GA		
0560 Atlantic-Cape May, NJ	1.1349	1.0905
Atlantic, NJ		
Cape May, NJ		
0580 Auburn-Opelika, AL	0.8325	0.8820
Lee, AL		
0600 Augusta-Aiken, GA–SC	1.0090	1.0062
Columbia, GA		
McDuffie, GA		
Richmond, GA		
Aiken, SC		
Edgefield, SC		
0640 [1] Austin-San Marcos, TX	0.9327	0.9534
Bastrop, TX		
Caldwell, TX		
Hays, TX		
Travis, TX		
Williamson, TX		
0680 [2] Bakersfield, CA	0.9870	0.9911
Kern, CA		
0720 [1] Baltimore, MD	0.9723	0.9809
Anne Arundel, MD		
Baltimore, MD		
Baltimore City, MD		
Carroll, MD		
Harford, MD		
Howard, MD		
Queen Anne's, MD		
0733 Bangor, ME	0.9559	0.9696
Penobscot, ME		
0743 Barnstable-Yarmouth, MA	1.3539	1.2306
Barnstable, MA		
0760 Baton Rouge, LA	0.8258	0.8772
Ascension, LA		
East Baton Rouge, LA		
Livingston, LA		
West Baton Rouge, LA		
0840 Beaumont-Port Arthur, TX	0.8508	0.8953
Hardin, TX		
Jefferson, TX		
Orange, TX		
0860 Bellingham, WA	1.1963	1.1306
Whatcom, WA		
0870 [2] Benton Harbor, MI	0.9115	0.9385
Berrien, MI		
0875 [1] Bergen-Passaic, NJ	1.1669	1.1115
Bergen, NJ		
Passaic, NJ		
0880 Billings, MT	0.9623	0.9740
Yellowstone, MT		
0920 Biloxi-Gulfport-Pascagoula, MS	0.8538	0.8974
Hancock, MS		
Harrison, MS		
Jackson, MS		
0960 Binghamton, NY	0.8595	0.9015
Broome, NY		
Tioga, NY		
1000 Birmingham, AL	0.8648	0.9053
Blount, AL		
Jefferson, AL		
St. Clair, AL		
Shelby, AL		
1010 [2] Bismarck, ND	0.7965	0.8557
Burleigh, ND		
Morton, ND		
1020 [2] Bloomington, IN	0.8757	0.9131
Monroe, IN		
1040 Bloomington-Normal, IL	0.8545	0.8979
McLean, IL		
1080 Boise City, ID	0.9190	0.9438
Ada, ID		
Canyon, ID		
1123 [1, 2] Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (MA Hospitals)	1.1586	1.1061
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1123 [1] Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (NH Hospitals)	1.1483	1.0993
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1125 Boulder-Longmont, CO	0.9836	0.9887
Boulder, CO		
1145 Brazoria, TX	0.8299	0.8801
Brazoria, TX		
1150 Bremerton, WA	1.0882	1.0596
Kitsap, WA		
1240 Brownsville-Harlingen-San Benito, TX	0.8783	0.9150
Cameron, TX		
1260 Bryan-College Station, TX	0.9296	0.9512
Brazos, TX		
1280 [1] Buffalo-Niagara Falls, NY	0.9405	0.9589
Erie, NY		
Niagara, NY		
1303 Burlington, VT	0.9826	0.9881
Chittenden, VT		
Franklin, VT		
Grand Isle, VT		
1310 Caguas, PR	0.5158	0.6355
Caguas, PR		
Cayey, PR		
Cidra, PR		
Gurabo, PR		
San Lorenzo, PR		
1320 Canton-Massillon, OH	0.9059	0.9346
Carroll, OH		
Stark, OH		
1350 Casper, WY	0.9606	0.9728
Natrona, WY		
1360 Cedar Rapids, IA	0.8711	0.9098
Linn, IA		
1400 Champaign-Urbana, IL	0.9264	0.9490
Champaign, IL		
1440 Charleston-North Charleston, SC	0.9293	0.9510
Berkeley, SC		
Charleston, SC		
Dorchester, SC		
1480 Charleston, WV	0.9369	0.9563
Kanawha, WV		
Putnam, WV		
1520 [1] Charlotte-Gastonia-Rock Hill, NC–SC	0.9469	0.9633
Cabarrus, NC		
Gaston, NC		
Lincoln, NC		
Mecklenburg, NC		
Rowan, NC		
Stanly, NC		
Union, NC		
York, SC		
1540 Charlottesville, VA	1.0688	1.0466
Albemarle, VA		
Charlottesville City, VA		
Fluvanna, VA		
Greene, VA		
1560 Chattanooga, TN–GA	0.9446	0.9617
Catoosa, GA		
Dade, GA		
Walker, GA		
Hamilton, TN		
Marion, TN		
1580 [2] Cheyenne, WY	0.8855	0.9201
Laramie, WY		
1600 [1] Chicago, IL	1.1011	1.0682
Cook, IL		
DeKalb, IL		
DuPage, IL		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Grundy, IL		
Kane, IL		
Kendall, IL		
Lake, IL		
McHenry, IL		
Will, IL		
1620 Chico-Paradise, CA	0.9909	0.9938
Butte, CA		
1640 [1] Cincinnati, OH–KY–IN	0.9574	0.9706
Dearborn, IN		
Ohio, IN		
Boone, KY		
Campbell, KY		
Gallatin, KY		
Grant, KY		
Kenton, KY		
Pendleton, KY		
Brown, OH		
Clermont, OH		
Hamilton, OH		
Warren, OH		
1660 Clarksville-Hopkinsville, TN–KY	0.8481	0.8933
Christian, KY		
Montgomery, TN		
1680 [1] Cleveland-Lorain-Elyria, OH	0.9496	0.9652
Ashtabula, OH		
Cuyahoga, OH		
Geauga, OH		
Lake, OH		
Lorain, OH		
Medina, OH		
1720 Colorado Springs, CO	0.9754	0.9831
El Paso, CO		
1740 Columbia, MO	0.8787	0.9153
Boone, MO		
1760 Columbia, SC	0.9589	0.9717
Lexington, SC		
Richland, SC		
1800 Columbus, GA–AL	0.8471	0.8926
Russell, AL		
Chattahoochee, GA		
Harris, GA		
Muscogee, GA		
1840 [1] Columbus, OH	0.9724	0.9810
Delaware, OH		
Fairfield, OH		
Franklin, OH		
Licking, OH		
Madison, OH		
Pickaway, OH		
1880 Corpus Christi, TX	0.8203	0.8731
Nueces, TX		
San Patricio, TX		
1890 Corvallis, OR	1.1781	1.1188
Benton, OR		
1900 [2] Cumberland, MD–WV (MD Hospitals)	0.8962	0.9277
Allegany, MD		
Mineral, WV		
1900 Cumberland, MD–WV (WV Hospital)	0.8402	0.8876
Allegany, MD		
Mineral, WV		
1920 [1] Dallas, TX	0.9506	0.9659
Collin, TX		
Dallas, TX		
Denton, TX		
Ellis, TX		
Henderson, TX		
Hunt, TX		
Kaufman, TX		
Rockwall, TX		
1950 Danville, VA	0.8641	0.9048
Danville City, VA		
Pittsylvania, VA		
1960 Davenport-Moline-Rock Island, IA–IL	0.8790	0.9155
Scott, IA		
Henry, IL		
Rock Island, IL		
2000 Dayton-Springfield, OH	0.9323	0.9531
Clark, OH		
Greene, OH		
Miami, OH		
Montgomery, OH		
2020 Daytona Beach, FL	0.9069	0.9353
Flagler, FL		
Volusia, FL		
2030 Decatur, AL	0.8817	0.9174
Lawrence, AL		
Morgan, AL		
2040 [2] Decatur, IL	0.8140	0.8686
Macon, IL		
2080 [1] Denver, CO	1.0289	1.0197
Adams, CO		
Arapahoe, CO		
Denver, CO		
Douglas, CO		
Jefferson, CO		
2120 Des Moines, IA	0.8881	0.9219
Dallas, IA		
Polk, IA		
Warren, IA		
2160 [1] Detroit, MI	1.0478	1.0325
Lapeer, MI		
Macomb, MI		
Monroe, MI		
Oakland, MI		
St. Clair, MI		
Wayne, MI		
2180 Dothan, AL	0.8005	0.8587
Dale, AL		
Houston, AL		
2190 Dover, DE	1.0453	1.0308
Kent, DE		
2200 Dubuque, IA	0.8617	0.9031
Dubuque, IA		
2240 Duluth-Superior, MN–WI	1.0401	1.0273
St. Louis, MN		
Douglas, WI		
2281 Dutchess County, NY	1.0639	1.0433
Dutchess, NY		
2290 [2] Eau Claire, WI	0.9121	0.9389
Chippewa, WI		
Eau Claire, WI		
2320 El Paso, TX	0.9162	0.9418
El Paso, TX		
2330 Elkhart-Goshen, IN	0.9646	0.9756
Elkhart, IN		
2335 Elmira, NY	0.8530	0.8968
Chemung, NY		
2340 Enid, OK	0.8454	0.8914
Garfield, OK		
2360 Erie, PA	0.8911	0.9241
Erie, PA		
2400 Eugene-Springfield, OR	1.1485	1.0995
Lane, OR		
2440 [2] Evansville-Henderson, IN–KY (IN Hospitals)	0.8757	0.9131
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2440 [2] Evansville-Henderson, IN–KY (KY Hospitals)	0.8019	0.8597
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2520 Fargo-Moorhead, ND–MN	0.9374	0.9567
Clay, MN		
Cass, ND		
2560 Fayetteville, NC	0.9132	0.9397
Cumberland, NC		
2580 Fayetteville-Springdale-Rogers, AR	0.7587	0.8277
Benton, AR		
Washington, AR		
2620 Flagstaff, AZ–UT	1.0678	1.0459
Coconino, AZ		
Kane, UT		
2640 Flint, MI	1.0920	1.0621
Genesee, MI		
2650 Florence, AL	0.7927	0.8529
Colbert, AL		
Lauderdale, AL		
2655 Florence, SC	0.8843	0.9192
Florence, SC		
2670 Fort Collins-Loveland, CO	1.0161	1.0110
Larimer, CO		
2680 [1] Ft. Lauderdale, FL	1.0906	1.0612
Broward, FL		
2700 Fort Myers-Cape Coral, FL	0.9380	0.9571
Lee, FL		
2710 Fort Pierce-Port St. Lucie, FL	1.0067	1.0046
Martin, FL		
St. Lucie, FL		
2720 Fort Smith, AR–OK	0.8076	0.8639

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Crawford, AR		
Sebastian, AR		
Sequoyah, OK		
2750 [2] Fort Walton Beach, FL	0.8733	0.9114
Okaloosa, FL		
2760 Fort Wayne, IN	0.9186	0.9435
Adams, IN		
Allen, IN		
De Kalb, IN		
Huntington, IN		
Wells, IN		
Whitley, IN		
2800 [1] Forth Worth-Arlington, TX	0.9452	0.9621
Hood, TX		
Johnson, TX		
Parker, TX		
Tarrant, TX		
2840 Fresno, CA	0.9972	0.9981
Fresno, CA		
Madera, CA		
2880 Gadsden, AL	0.8845	0.9194
Etowah, AL		
2900 Gainesville, FL	1.2133	1.1416
Alachua, FL		
2920 Galveston-Texas City, TX	1.0271	1.0185
Galveston, TX		
2960 Gary, IN	0.9571	0.9704
Lake, IN		
Porter, IN		
2975 [2] Glens Falls, NY	0.8530	0.8968
Warren, NY		
Washington, NY		
2980 Goldsboro, NC	0.8810	0.9169
Wayne, NC		
2985 Grand Forks, ND–MN	0.9173	0.9426
Polk, MN		
Grand Forks, ND		
2995 Grand Junction, CO	0.9816	0.9874
Mesa, CO		
3000 [1] Grand Rapids-Muskegon-Holland, MI	1.0161	1.0110
Allegan, MI		
Kent, MI		
Muskegon, MI		
Ottawa, MI		
3040 Great Falls, MT	0.9301	0.9516
Cascade, MT		
3060 Greeley, CO	0.9604	0.9727
Weld, CO		
3080 Green Bay, WI	0.9440	0.9613
Brown, WI		
3120 [1] Greensboro-Winston-Salem-High Point, NC	0.9616	0.9735
Alamance, NC		
Davidson, NC		
Davie, NC		
Forsyth, NC		
Guilford, NC		
Randolph, NC		
Stokes, NC		
Yadkin, NC		
3150 Greenville, NC	0.9963	0.9975
Pitt, NC		
3160 Greenville-Spartanburg-Anderson, SC	0.9110	0.9382
Anderson, SC		
Cherokee, SC		
Greenville, SC		
Pickens, SC		
Spartanburg, SC		
3180 [2] Hagerstown, MD	0.8962	0.9277
Washington, MD		
3200 Hamilton-Middletown, OH	0.9269	0.9493
Butler, OH		
3240 Harrisburg-Lebanon-Carlisle, PA	0.9311	0.9523
Cumberland, PA		
Dauphin, PA		
Lebanon, PA		
Perry, PA		
3283 [1, 2] Hartford, CT	1.2357	1.1560
Hartford, CT		
Litchfield, CT		
Middlesex, CT		
Tolland, CT		
3285 [2] Hattiesburg, MS	0.7612	0.8296
Forrest, MS		
Lamar, MS		
3290 Hickory-Morganton-Lenoir, NC	0.9517	0.9667
Alexander, NC		
Burke, NC		
Caldwell, NC		
Catawba, NC		
3320 Honolulu, HI	1.1658	1.1108
Honolulu, HI		
3350 Houma, LA	0.8043	0.8615
Lafourche, LA		
Terrebonne, LA		
3360 [1] Houston, TX	0.9604	0.9727
Chambers, TX		
Fort Bend, TX		
Harris, TX		
Liberty, TX		
Montgomery, TX		
Waller, TX		
3400 Huntington-Ashland, WV–KY–OH	0.9700	0.9794
Boyd, KY		
Carter, KY		
Greenup, KY		
Lawrence, OH		
Cabell, WV		
Wayne, WV		
3440 Huntsville, AL	0.8854	0.9200
Limestone, AL		
Madison, AL		
3480 [1] Indianapolis, IN	0.9771	0.9843
Boone, IN		
Hamilton, IN		
Hancock, IN		
Hendricks, IN		
Johnson, IN		
Madison, IN		
Marion, IN		
Morgan, IN		
Shelby, IN		
3500 Iowa City, IA	0.9973	0.9982
Johnson, IA		
3520 Jackson, MI	0.9387	0.9576
Jackson, MI		
3560 Jackson, MS	0.8589	0.9011
Hinds, MS		
Madison, MS		
Rankin, MS		
3580 Jackson, TN	0.9117	0.9387
Madison, TN		
Chester, TN		
3600 [1] Jacksonville, FL	0.9040	0.9332
Clay, FL		
Duval, FL		
Nassau, FL		
St. Johns, FL		
3605 [2] Jacksonville, NC	0.8632	0.9042
Onslow, NC		
3610 [2] Jamestown, NY	0.8530	0.8968
Chautauqua, NY		
3620 Janesville-Beloit, WI	0.9840	0.9890
Rock, WI		
3640 Jersey City, NJ	1.1216	1.0818
Hudson, NJ		
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8540	0.8976
Carter, TN		
Hawkins, TN		
Sullivan, TN		
Unicoi, TN		
Washington, TN		
Bristol City, VA		
Scott, VA		
Washington, VA		
3680 Johnstown, PA	0.8959	0.9275
Cambria, PA		
Somerset, PA		
3700 Jonesboro, AR	0.8523	0.8963
Craighead, AR		
3710 Joplin, MO	0.8736	0.9116
Jasper, MO		
Newton, MO		
3720 Kalamazoo-Battlecreek, MI	1.0696	1.0472
Calhoun, MI		
Kalamazoo, MI		
Van Buren, MI		
3740 Kankakee, IL	0.9268	0.9493
Kankakee, IL		
3760 [1] Kansas City, KS–MO	0.9430	0.9606
Johnson, KS		
Leavenworth, KS		
Miami, KS		
Wyandotte, KS		
Cass, MO		
Clay, MO		
Clinton, MO		
Jackson, MO		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Lafayette, MO		
Platte, MO		
Ray, MO		
3800 Kenosha, WI	0.9678	0.9778
Kenosha, WI		
3810 [2] Killeen-Temple, TX	0.7673	0.8341
Bell, TX		
Coryell, TX		
3840 Knoxville, TN	0.8904	0.9236
Anderson, TN		
Blount, TN		
Knox, TN		
Loudon, TN		
Sevier, TN		
Union, TN		
3850 Kokomo, IN	0.9290	0.9508
Howard, IN		
Tipton, IN		
3870 La Crosse, WI–MN	0.9328	0.9535
Houston, MN		
La Crosse, WI		
3880 Lafayette, LA	0.8600	0.9019
Acadia, LA		
Lafayette, LA		
St. Landry, LA		
St. Martin, LA		
3920 Lafayette, IN	0.9165	0.9420
Clinton, IN		
Tippecanoe, IN		
3960 Lake Charles, LA	0.7810	0.8443
Calcasieu, LA		
3980 Lakeland-Winter Haven, FL	0.9167	0.9422
Polk, FL		
4000 Lancaster, PA	0.9413	0.9594
Lancaster, PA		
4040 Lansing-East Lansing, MI	0.9653	0.9761
Clinton, MI		
Eaton, MI		
Ingham, MI		
4080 Laredo, TX	0.7877	0.8492
Webb, TX		
4100 [2] Las Cruces, NM	0.8835	0.9187
Dona Ana, NM		
4120 [1] Las Vegas, NV–AZ	1.1238	1.0832
Mohave, AZ		
Clark, NV		
Nye, NV		
4150 Lawrence, KS	0.8756	0.9130
Douglas, KS		
4200 Lawton, OK	0.8783	0.9150
Comanche, OK		
4243 Lewiston-Auburn, ME	0.9451	0.9621
Androscoggin, ME		
4280 Lexington, KY	0.8850	0.9197
Bourbon, KY		
Clark, KY		
Fayette, KY		
Jessamine, KY		
Madison, KY		
Scott, KY		
Woodford, KY		
4320 Lima, OH	0.9558	0.9695
Allen, OH		
Auglaize, OH		
4360 Lincoln, NE	1.0272	1.0185
Lancaster, NE		
4400 Little Rock-North Little Rock, AR	0.9053	0.9341
Faulkner, AR		
Lonoke, AR		
Pulaski, AR		
Saline, AR		
4420 Longview-Marshall, TX	0.8439	0.8903
Gregg, TX		
Harrison, TX		
Upshur, TX		
4480 [1] Los Angeles-Long Beach, CA	1.2071	1.1376
Los Angeles, CA		
4520 [1] Louisville, KY–IN	0.9596	0.9722
Clark, IN		
Floyd, IN		
Harrison, IN		
Scott, IN		
Bullitt, KY		
Jefferson, KY		
Oldham, KY		
4600 Lubbock, TX	0.8547	0.8981
Lubbock, TX		
4640 Lynchburg, VA	0.9208	0.9451
Amherst, VA		
Bedford, VA		
Bedford City, VA		
Campbell, VA		
Lynchburg City, VA		
4680 Macon, GA	0.9077	0.9358
Bibb, GA		
Houston, GA		
Jones, GA		
Peach, GA		
Twiggs, GA		
4720 Madison, WI	1.0462	1.0314
Dane, WI		
4800 Mansfield, OH	0.8827	0.9181
Crawford, OH		
Richland, OH		
4840 Mayaguez, PR	0.4917	0.6150
Anasco, PR		
Cabo Rojo, PR		
Hormigueros, PR		
Mayaguez, PR		
Sabana Grande, PR		
San German, PR		
4880 McAllen-Edinburg-Mission, TX	0.8433	0.8898
Hidalgo, TX		
4890 Medford-Ashland, OR	1.0433	1.0295
Jackson, OR		
4900 Melbourne-Titusville-Palm Bay, FL	0.9883	0.9920
Brevard, Fl		
4920 [1] Memphis, TN–AR–MS	0.9435	0.9610
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4940 Merced, CA	0.9870	0.9911
Merced, CA		
5000 [1] Miami, FL	0.9934	0.9955
Dade, FL		
5015 [1] Middlesex-Somerset-Hunterdon, NJ	1.1952	1.1299
Hunterdon, NJ		
Middlesex, NJ		
Somerset, NJ		
5080 [1] Milwaukee-Waukesha, WI	0.9898	0.9930
Milwaukee, WI		
Ozaukee, WI		
Washington, WI		
Waukesha, WI		
5120 [1] Minneapolis-St. Paul, MN–WI	1.1000	1.0674
Anoka, MN		
Carver, MN		
Chisago, MN		
Dakota, MN		
Hennepin, MN		
Isanti, MN		
Ramsey, MN		
Scott, MN		
Sherburne, MN		
Washington, MN		
Wright, MN		
Pierce, WI		
St. Croix, WI		
5140 Missoula, MT	0.9453	0.9622
Missoula, MT		
5160 Mobile, AL	0.7766	0.8410
Baldwin, AL		
Mobile, AL		
5170 Modesto, CA	1.0945	1.0638
Stanislaus, CA		
5190 [1] Monmouth-Ocean, NJ	1.1514	1.1014
Monmouth, NJ		
Ocean, NJ		
5200 Monroe, LA	0.8296	0.8799
Ouachita, LA		
5240 Montgomery, AL	0.7502	0.8213
Autauga, AL		
Elmore, AL		
Montgomery, AL		
5280 Muncie, IN	0.9689	0.9786
Delaware, IN		
5330 Myrtle Beach, SC	0.8855	0.9201
Horry, SC		
5345 Naples, FL	0.9566	0.9701
Collier, FL		
5360 [1] Nashville, TN	0.9602	0.9726
Cheatham, TN		
Davidson, TN		
Dickson, TN		
Robertson, TN		
Rutherford TN		
Sumner, TN		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Williamson, TN		
Wilson, TN		
5380 [1] Nassau-Suffolk, NY	1.3841	1.2493
Nassau, NY		
Suffolk, NY		
5483 [1 2] New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2357	1.1560
Fairfield, CT		
New Haven, CT		
5523 [1 2] New London-Norwich, CT	1.2357	1.1560
New London, CT		
5560 [1] New Orleans, LA	0.9054	0.9342
Jefferson, LA		
Orleans, LA		
Plaquemines, LA		
St. Bernard, LA		
St. Charles, LA		
St. James, LA		
St. John The Baptist, LA		
St. Tammany, LA		
5600 [1] New York, NY	1.3923	1.2544
Bronx, NY		
Kings, NY		
New York, NY		
Putnam, NY		
Queens, NY		
Richmond, NY		
Rockland, NY		
Westchester, NY		
5640 [1] Newark, NJ	1.2004	1.1332
Essex, NJ		
Morris, NJ		
Sussex, NJ		
Union, NJ		
Warren, NJ		
5660 Newburgh, NY–PA	1.1235	1.0830
Orange, NY		
Pike, PA		
5720 [1] Norfolk-Virginia Beach-Newport News, VA–NC	0.8630	0.9040
Currituck, NC		
Chesapeake City, VA		
Gloucester, VA		
Hampton City, VA		
Isle of Wight, VA		
James City, VA		
Mathews, VA		
Newport News City, VA		
Norfolk City, VA		
Poquoson City, VA		
Portsmouth City, VA		
Suffolk City, VA		
Virginia Beach City VA		
Williamsburg City, VA		
York, VA		
5775 [1] Oakland, CA	1.5416	1.3450
Alameda, CA		
Contra Costa, CA		
5790 Ocala, FL	0.9579	0.9710
Marion, FL		
5800 Odessa-Midland, TX	0.9017	0.9316
Ector, TX		
Midland, TX		
5880 [1] Oklahoma City, OK	0.8728	0.9110
Canadian, OK		
Cleveland, OK		
Logan, OK		
McClain, OK		
Oklahoma, OK		
Pottawatomie, OK		
5910 Olympia, WA	1.1481	1.0992
Thurston, WA		
5920 Omaha, NE–IA	0.9696	0.9791
Pottawattamie, IA		
Cass, NE		
Douglas, NE		
Sarpy, NE		
Washington, NE		
5945 [1] Orange County, CA	1.1354	1.0909
Orange, CA		
5960 [1] Orlando, FL	0.9464	0.9630
Lake, FL		
Orange, FL		
Osceola, FL		
Seminole, FL		
5990 Owensboro, KY	0.8346	0.8835
Daviess, KY		
6015 Panama City, FL	0.9166	0.9421
Bay, FL		
6020 Parkersburg-Marietta, WV–OH (WV Hospitals)	0.8192	0.8723
Washington, OH		
Wood, WV		
6020 [2] Parkersburg-Marietta, WV–OH (OH Hospitals)	0.8761	0.9134
Washington, OH		
Wood, WV		
6080 [2] Pensacola, FL	0.8733	0.9114
Escambia, FL		
Santa Rosa, FL		
6120 Peoria-Pekin, IL	0.8883	0.9221
Peoria, IL		
Tazewell, IL		
Woodford, IL		
6160 [1] Philadelphia, PA–NJ	1.0626	1.0425
Burlington, NJ		
Camden, NJ		
Gloucester, NJ		
Salem, NJ		
Bucks, PA		
Chester, PA		
Delaware, PA		
Montgomery, PA		
Philadelphia, PA		
6200 [1] Phoenix-Mesa, AZ	0.9654	0.9762
Maricopa, AZ		
Pinal, AZ		
6240 Pine Bluff, AR	0.7837	0.8463
Jefferson, AR		
6280 [1] Pittsburgh, PA	0.9714	0.9803
Allegheny, PA		
Beaver, PA		
Butler, PA		
Fayette, PA		
Washington, PA		
Westmoreland, PA		
6323 [2] Pittsfield, MA	1.1586	1.1061
Berkshire, MA		
6340 Pocatello, ID	0.9557	0.9694
Bannock, ID		
6360 Ponce, PR	0.5278	0.6456
Guayanilla, PR		
Juana Diaz, PR		
Penuelas, PR		
Ponce, PR		
Villalba, PR		
Yauco, PR		
6403 Portland, ME	0.9501	0.9656
Cumberland, ME		
Sagadahoc, ME		
York, ME		
6440 [1] Portland-Vancouver, OR–WA	1.1291	1.0867
Clackamas, OR		
Columbia, OR		
Multnomah, OR		
Washington, OR		
Yamhill, OR		
Clark, WA		
6483 [1] Providence-Warwick-Pawtucket, RI	1.0781	1.0528
Bristol, RI		
Kent, RI		
Newport, RI		
Providence, RI		
Washington, RI		
6520 Provo-Orem, UT	0.9967	0.9977
Utah, UT		
6560 [2] Pueblo, CO	0.8909	0.9239
Pueblo, CO		
6580 Punta Gorda, FL	0.8818	0.9175
Charlotte, FL		
6600 Racine, WI	0.9441	0.9614
Racine, WI		
6640 [1] Raleigh-Durham-Chapel Hill, NC	0.9901	0.9932
Chatham, NC		
Durham, NC		
Franklin, NC		
Johnston, NC		
Orange, NC		
Wake, NC		
6660 Rapid City, SD	0.8971	0.9283
Pennington, SD		
6680 [2] Reading, PA	0.8473	0.8927
Berks, PA		
6690 Redding, CA	1.1222	1.0822
Shasta, CA		
6720 Reno, NV	1.0456	1.0310
Washoe, NV		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
6740 Richland-Kennewick-Pasco, WA	1.1086	1.0732
Benton, WA		
Franklin, WA		
6760 Richmond-Petersburg, VA	0.9712	0.9802
Charles City County, VA		
Chesterfield, VA		
Colonial Heights City, VA		
Dinwiddie, VA		
Goochland, VA		
Hanover, VA		
Henrico, VA		
Hopewell City, VA		
New Kent, VA		
Petersburg City, VA		
Powhatan, VA		
Prince George, VA		
Richmond City, VA		
6780 [1] Riverside-San Bernardino, CA	1.1012	1.0682
Riverside, CA		
San Bernardino, CA		
6800 [2] Roanoke, VA	0.8473	0.8927
Botetourt, VA		
Roanoke, VA		
Roanoke City, VA		
Salem City, VA		
6820 Rochester, MN	1.1595	1.1067
Olmsted, MN		
6840 [1] Rochester, NY	0.9238	0.9472
Genesee, NY		
Livingston, NY		
Monroe, NY		
Ontario, NY		
Orleans, NY		
Wayne, NY		
6880 Rockford, IL	0.9194	0.9441
Boone, IL		
Ogle, IL		
Winnebago, IL		
6895 Rocky Mount, NC	0.9197	0.9443
Edgecombe, NC		
Nash, NC		
6920 [1] Sacramento, CA	1.1809	1.1206
El Dorado, CA		
Placer, CA		
Sacramento, CA		
6960 Saginaw-Bay City-Midland, MI	0.9662	0.9767
Bay, MI		
Midland, MI		
Saginaw, MI		
6980 St. Cloud, MN	1.0040	1.0027
Benton, MN		
Stearns, MN		
7000 St. Joseph, MO	0.9113	0.9384
Andrew, MO		
Buchanan, MO		
7040 [1] St. Louis, MO–IL	0.9024	0.9321
Clinton, IL		
Jersey, IL		
Madison, IL		
Monroe, IL		
St. Clair, IL		
Franklin, MO		
Jefferson, MO		
Lincoln, MO		
St. Charles, MO		
St. Louis, MO		
St. Louis City, MO		
Warren, MO		
7080 [2] Salem, OR	1.0156	1.0107
Marion, OR		
Polk, OR		
7120 Salinas, CA	1.4854	1.3112
Monterey, CA		
7160 [1] Salt Lake City-Ogden, UT	0.9976	0.9984
Davis, UT		
Salt Lake, UT		
Weber, UT		
7200 San Angelo, TX	0.8288	0.8793
Tom Green, TX		
7240 [1] San Antonio, TX	0.8333	0.8826
Bexar, TX		
Comal, TX		
Guadalupe, TX		
Wilson, TX		
7320 [1] San Diego, CA	1.1480	1.0991
San Diego, CA		
7360 [1] San Francisco, CA	1.4319	1.2787
Marin, CA		
San Francisco, CA		
San Mateo, CA		
7400 [1] San Jose, CA	1.4249	1.2744
Santa Clara, CA		
7440 [1] San Juan-Bayamon, PR	0.4812	0.6060
Aguas Buenas, PR		
Barceloneta, PR		
Bayamon, PR		
Canovanas, PR		
Carolina, PR		
Catano, PR		
Ceiba, PR		
Comerio, PR		
Corozal, PR		
Dorado, PR		
Fajardo, PR		
Florida, PR		
Guaynabo, PR		
Humacao, PR		
Juncos, PR		
Los Piedras, PR		
Loiza, PR		
Luguillo, PR		
Manati, PR		
Morovis, PR		
Naguabo, PR		
Naranjito, PR		
Rio Grande, PR		
San Juan, PR		
Toa Alta, PR		
Toa Baja, PR		
Trujillo Alto, PR		
Vega Alta, PR		
Vega Baja, PR		
Yabucoa, PR		
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.1117	1.0752
San Luis Obispo, CA		
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.0927	1.0626
Santa Barbara, CA		
7485 Santa Cruz-Watsonville, CA	1.4049	1.2621
Santa Cruz, CA		
7490 Santa Fe, NM	1.0312	1.0213
Los Alamos, NM		
Santa Fe, NM		
7500 Santa Rosa, CA	1.2727	1.1796
Sonoma, CA		
7510 Sarasota-Bradenton, FL	1.0118	1.0081
Manatee, FL		
Sarasota, FL		
7520 Savannah, GA	0.9349	0.9549
Bryan, GA		
Chatham, GA		
Effingham, GA		
7560 [2] Scranton—Wilkes-Barre—Hazleton, PA	0.8473	0.8927
Columbia, PA		
Lackawanna, PA		
Luzerne, PA		
Wyoming, PA		
7600 [1] Seattle-Bellevue-Everett, WA	1.1056	1.0712
Island, WA		
King, WA		
Snohomish, WA		
7610 [2] Sharon, PA	0.8473	0.8927
Mercer, PA		
7620 [2] Sheboygan, WI	0.9121	0.9389
Sheboygan, WI		
7640 Sherman-Denison, TX	0.9163	0.9419
Grayson, TX		
7680 Shreveport-Bossier City, LA	0.9165	0.9420
Bossier, LA		
Caddo, LA		
Webster, LA		
7720 Sioux City, IA–NE	0.8868	0.9210
Woodbury, IA		
Dakota, NE		
7760 Sioux Falls, SD	0.9245	0.9477
Lincoln, SD		
Minnehaha, SD		
7800 South Bend, IN	1.0303	1.0207
St. Joseph, IN		
7840 Spokane, WA	1.0791	1.0535
Spokane, WA		
7880 Springfield, IL	0.8502	0.8948
Menard, IL		
Sangamon, IL		
7920 Springfield, MO	0.8666	0.9066
Christian, MO		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index	GAF
Greene, MO		
Webster, MO		
8003 [2] Springfield, MA	1.1586	1.1061
Hampden, MA		
Hampshire, MA		
8050 State College, PA	0.9239	0.9472
Centre, PA		
8080 [2] Steubenville-Weirton, OH–WV (OH Hospitals)	0.8761	0.9134
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8080 Steubenville-Weirton, OH–WV (WV Hospitals)	0.8737	0.9117
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8120 Stockton-Lodi, CA	1.1114	1.0750
San Joaquin, CA		
8140 [2] Sumter, SC	0.8606	0.9023
Sumter, SC		
8160 Syracuse, NY	0.9247	0.9478
Cayuga, NY		
Madison, NY		
Onondaga, NY		
Oswego, NY		
8200 Tacoma, WA	1.1751	1.1168
Pierce, WA		
8240 [2] Tallahassee, FL	0.8733	0.9114
Gadsden, FL		
Leon, FL		
8280 [1] Tampa-St. Petersburg-Clearwater, FL	0.9095	0.9371
Hernando, FL		
Hillsborough, FL		
Pasco, FL		
Pinellas, FL		
8320 [2] Terre Haute, IN	0.8757	0.9131
Clay, IN		
Vermillion, IN		
Vigo, IN		
8360 Texarkana, AR-Texarkana, TX	0.8414	0.8885
Miller, AR		
Bowie, TX		
8400 Toledo, OH	0.9815	0.9873
Fulton, OH		
Lucas, OH		
Wood, OH		
8440 Topeka, KS	0.9015	0.9315
Shawnee, KS		
8480 Trenton, NJ	1.0172	1.0117
Mercer, NJ		
8520 Tucson, AZ	0.9002	0.9305
Pima, AZ		
8560 Tulsa, OK	0.8949	0.9268
Creek, OK		
Osage, OK		
Rogers, OK		
Tulsa, OK		
Wagoner, OK		
8600 Tuscaloosa, AL	0.8265	0.8777
Tuscaloosa, AL		
8640 Tyler, TX	0.9109	0.9381
Smith, TX		
8680 [2] Utica-Rome, NY	0.8530	0.8968
Herkimer, NY		
Oneida, NY		
8720 Vallejo-Fairfield-Napa, CA	1.3535	1.2303
Napa, CA		
Solano, CA		
8735 Ventura, CA	1.1088	1.0733
Ventura, CA		
8750 Victoria, TX	0.8354	0.8841
Victoria, TX		
8760 Vineland-Millville-Bridgeton, NJ	1.0473	1.0322
Cumberland, NJ		
8780 [2] Visalia-Tulare-Porterville, CA	0.9870	0.9911
Tulare, CA		
8800 Waco, TX	0.8268	0.8779
McLennan, TX		
8840 [1] Washington, DC–MD–VA–WV	1.1176	1.0791
District of Columbia, DC		
Calvert, MD		
Charles, MD		
Frederick, MD		
Montgomery, MD		
Prince Georges, MD		
Alexandria City, VA		
Arlington, VA		
Clarke, VA		
Culpeper, VA		
Fairfax, VA		
Fairfax City, VA		
Falls Church City, VA		
Fauquier, VA		
Fredericksburg City, VA		
King George, VA		
Loudoun, VA		
Manassas City, VA		
Manassas Park City, VA		
Prince William, VA		
Spotsylvania, VA		
Stafford, VA		
Warren, VA		
Berkeley, WV		
Jefferson, WV		
8920 Waterloo-Cedar Falls, IA	0.8608	0.9024
Black Hawk, IA		
8940 Wausau, WI	0.9516	0.9666
Marathon, WI		
8960 [1] West Palm Beach-Boca Raton, FL	0.9785	0.9852
Palm Beach, FL		
9000 [2] Wheeling, WV–OH (WV Hospitals)	0.8145	0.8689
Belmont, OH		
Marshall, WV		
Ohio, WV		
9000 [2] Wheeling, WV–OH (OH Hospitals)	0.8761	0.9134
Belmont, OH		
Marshall, WV		
Ohio, WV		
9040 Wichita, KS	0.9541	0.9683
Butler, KS		
Harvey, KS		
Sedgwick, KS		
9080 Wichita Falls, TX	0.8015	0.8594
Archer, TX		
Wichita, TX		
9140 Williamsport, PA	0.8503	0.8949
Lycoming, PA		
9160 Wilmington-Newark, DE–MD	1.0757	1.0512
New Castle, DE		
Cecil, MD		
9200 Wilmington, NC	0.9971	0.9980
New Hanover, NC		
Brunswick, NC		
9260 Yakima, WA	1.0690	1.0468
Yakima, WA		
9270 [2] Yolo, CA	0.9870	0.9911
Yolo, CA		
9280 [2] York, PA	0.8473	0.8927
York, PA		
9320 Youngstown-Warren, OH	0.9480	0.9641
Columbiana, OH		
Mahoning, OH		
Trumbull, OH		
9340 Yuba City, CA	1.0479	1.0326
Sutter, CA		
Yuba, CA		
9360 Yuma, AZ	0.8904	0.9236
Yuma, AZ		

[1] Large Urban Area
[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2002.

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

Nonurban area	Wage index	GAF
Alabama	0.7483	0.8199
Alaska	1.2006	1.1334
Arizona	0.8747	0.9124
Arkansas	0.7561	0.8258
California	0.9870	0.9911
Colorado	0.8909	0.9239
Connecticut	1.2357	1.1560
Delaware	0.9487	0.9646
Florida	0.8733	0.9114
Georgia	0.8341	0.8832
Hawaii	1.1235	1.0830
Idaho	0.8820	0.9176
Illinois	0.8140	0.8686
Indiana	0.8757	0.9131
Iowa	0.8194	0.8725

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS—Continued

Nonurban area	Wage index	GAF
Kansas	0.7850	0.8472
Kentucky	0.8019	0.8597
Louisiana	0.7755	0.8402
Maine	0.8714	0.9100
Maryland	0.8962	0.9277
Massachusetts	1.1586	1.1061
Michigan	0.9115	0.9385
Minnesota	0.9109	0.9381
Mississippi	0.7612	0.8296
Missouri	0.7838	0.8464
Montana	0.8642	0.9049
Nebraska	0.8233	0.8753
Nevada	0.9785	0.9852
New Hampshire	0.9914	0.9941
New Jersey [1]	.....	.....
New Mexico	0.8835	0.9187
New York	0.8530	0.8968
North Carolina	0.8632	0.9042
North Dakota	0.7965	0.8557
Ohio	0.8761	0.9134
Oklahoma	0.7646	0.8321
Oregon	1.0156	1.0107
Pennsylvania	0.8473	0.8927
Puerto Rico	0.4654	0.5923
Rhode Island [1]	.....	.....
South Carolina	0.8606	0.9023
South Dakota	0.7934	0.8534
Tennessee	0.7901	0.8510
Texas	0.7673	0.8341
Utah	0.9156	0.9414
Vermont	0.9576	0.9708
Virginia	0.8473	0.8927
Washington	1.0301	1.0205
West Virginia	0.8145	0.8689
Wisconsin	0.9121	0.9389
Wyoming	0.8855	0.9201 –

[1] All counties within the State are classified as urban.

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

Area	Wage index	GAF
Abilene, TX	0.8118	0.8669
Akron, OH	0.9924	0.9948
Albany, GA	1.0675	1.0457
Albuquerque, NM	0.9748	0.9827
Alexandria, LA	0.8137	0.8683
Allentown-Bethlehem-Easton, PA	0.9443	0.9615
Altoona, PA	0.9225	0.9463
Amarillo, TX	0.8485	0.8936
Anchorage, AK	1.2605	1.1718
Ann Arbor, MI	1.1220	1.0820
Anniston, AL	0.7922	0.8526
Asheville, NC	0.9307	0.9520
Athens, GA	0.9818	0.9875
Atlanta, GA	1.0066	1.0045
Augusta-Aiken, GA–SC	1.0090	1.0062
Austin-San Marcos, TX	0.9327	0.9534
Barnstable-Yarmouth, MA	1.3415	1.2229
Baton Rouge, LA	0.8258	0.8772
Bellingham, WA	1.1427	1.0957
Benton Harbor, MI	0.9115	0.9385
Bergen-Passaic, NJ	1.1669	1.1115
Billings, MT	0.9623	0.9740
Biloxi-Gulfport-Pascagoula, MS	0.8198	0.8728
Binghamton, NY	0.8595	0.9015
Birmingham, AL	0.8648	0.9053
Bismarck, ND	0.7965	0.8557
Bloomington-Normal, IL	0.8545	0.8979
Boise City, ID	0.9190	0.9438
Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	1.1483	1.0993
Burlington, VT	0.9606	0.9728
Caguas, PR	0.4993	0.6215
Casper, WY	0.9454	0.9623
Champaign-Urbana, IL	0.9264	0.9490
Charleston-North Charleston, SC	0.9293	0.9510
Charleston, WV	0.8991	0.9298
Charlotte-Gastonia-Rock Hill, NC–SC	0.9469	0.9633
Chattanooga, TN–GA	0.9207	0.9450
Chicago, IL	1.0887	1.0599
Cincinnati, OH–KY–IN	0.9574	0.9706
Clarksville-Hopkinsville, TN–KY	0.8481	0.8933
Cleveland-Lorain-Elyria, OH	0.9496	0.9652
Columbia, MO	0.8787	0.9153
Columbia, SC	0.9264	0.9490
Columbus, GA–AL	0.8471	0.8926
Columbus, OH	0.9724	0.9810
Corpus Christi, TX	0.8203	0.8731
Dallas, TX	0.9506	0.9659
Davenport-Moline-Rock Island, IA–IL	0.8790	0.9155
Dayton-Springfield, OH	0.9323	0.9531
Denver, CO	1.0289	1.0197
Des Moines, IA	0.8881	0.9219
Dothan, AL	0.8005	0.8587
Dover, DE	0.9957	0.9971
Duluth-Superior, MN–WI	1.0299	1.0204
Eau Claire, WI	0.9121	0.9389
Elkhart-Goshen, IN	0.9516	0.9666
Erie, PA	0.8780	0.9148
Eugene-Springfield, OR	1.1073	1.0723
Fargo-Moorhead, ND–MN	0.9247	0.9478
Fayetteville, NC	0.8970	0.9283
Flagstaff, AZ–UT	1.0222	1.0151
Flint, MI	1.0920	1.0621
Florence, AL	0.7927	0.8529
Florence, SC	0.8843	0.9192
Fort Collins-Loveland, CO	1.0161	1.0110
Ft. Lauderdale, FL	1.0906	1.0612
Fort Pierce-Port St. Lucie, FL	1.0067	1.0046
Fort Smith, AR–OK	0.7889	0.8501
Fort Walton Beach, FL	0.8547	0.8981
Fort Wayne, IN	0.9059	0.9346
Forth Worth-Arlington, TX	0.9452	0.9621
Gadsden, AL	0.8446	0.8908
Gainesville, FL	1.1855	1.1236
Grand Forks, ND–MN (ND Hospitals)	0.9022	0.9319
Grand Forks, ND–MN (MN Hospital)	0.9109	0.9381
Grand Junction, CO	0.9816	0.9874
Grand Rapids-Muskegon-Holland, MI	1.0052	1.0036
Great Falls, MT	0.9301	0.9516
Greeley, CO	0.9604	0.9727
Green Bay, WI	0.9440	0.9613
Greensboro-Winston-Salem-High Point, NC	0.9474	0.9637
Greenville, NC	0.9751	0.9829
Greenville-Spartanburg-Anderson, SC	0.9110	0.9382
Harrisburg-Lebanon-Carlisle, PA	0.9068	0.9352
Hartford, CT	1.1586	1.1061
Hattiesburg, MS	0.7612	0.8296
Hickory-Morganton-Lenoir, NC	0.9517	0.9667
Honolulu, HI	1.1658	1.1108
Houston, TX	0.9604	0.9727
Huntington-Ashland, WV–KY–OH	0.9286	0.9505
Huntsville, AL	0.8657	0.9060
Indianapolis, IN	0.9666	0.9770
Iowa City, IA	0.9820	0.9876
Jackson, MS	0.8589	0.9011
Jackson, TN	0.8945	0.9265
Jacksonville, FL	0.9040	0.9332
Johnson City-Kingsport-Bristol, TN–VA	0.8540	0.8976
Jonesboro, AR	0.8093	0.8651
Joplin, MO	0.8560	0.8990
Kalamazoo-Battlecreek, MI	1.0537	1.0365
Kansas City, KS–MO	0.9430	0.9606
Knoxville, TN	0.8904	0.9236
Kokomo, IN	0.9290	0.9508
Lafayette, LA	0.8430	0.8896
Lansing-East Lansing, MI	0.9653	0.9761
Las Vegas, NV–AZ	1.1238	1.0832
Lawton, OK	0.8372	0.8854
Lexington, KY	0.8675	0.9072
Lima, OH	0.9558	0.9695
Lincoln, NE	0.9945	0.9962
Little Rock-North Little Rock, AR	0.8938	0.9260
Longview-Marshall, TX	0.8439	0.8903
Los Angeles-Long Beach, CA	1.2071	1.1376
Louisville, KY–IN	0.9481	0.9642
Lubbock, TX	0.8547	0.8981
Lynchburg, VA	0.8897	0.9231
Macon, GA	0.9077	0.9358
Madison, WI	1.0462	1.0314
Mansfield, OH	0.8827	0.9181
Medford-Ashland, OR	1.0156	1.0107
Melbourne-Titusville-Palm Bay, FL	0.9883	0.9920
Memphis, TN–AR–MS	0.9152	0.9411
Miami, FL	0.9934	0.9955

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Milwaukee-Waukesha, WI	0.9898	0.9930
Minneapolis-St. Paul, MN–WI	1.1000	1.0674
Missoula, MT	0.9273	0.9496
Mobile, AL	0.7766	0.8410
Modesto, CA	1.0945	1.0638
Monmouth-Ocean, NJ	1.1514	1.1014
Monroe, LA	0.8191	0.8723
Montgomery, AL	0.7502	0.8213
Myrtle Beach, SC	0.8663	0.9064
Nashville, TN	0.9433	0.9608
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2357	1.1560
New London-Norwich, CT	1.1578	1.1055
New Orleans, LA	0.9054	0.9342
New York, NY	1.3923	1.2544
Newark, NJ	1.2004	1.1332
Newburgh, NY–PA	1.0838	1.0567
Norfolk-Virginia Beach-Newport News, VA–NC	0.8632	0.9042
Oakland, CA	1.5313	1.3388
Odessa-Midland, TX (TX Hospitals)	0.8769	0.9140
Odessa-Midland, TX (NM Hospitals)	0.8835	0.9187
Oklahoma City, OK	0.8728	0.9110
Omaha, NE–IA	0.9696	0.9791
Orange County, CA	1.1354	1.0909
Orlando, FL	0.9464	0.9630
Peoria-Pekin, IL	0.8883	0.9221
Philadelphia, PA–NJ	1.0626	1.0425
Pine Bluff, AR	0.7837	0.8463
Pittsburgh, PA	0.9550	0.9690
Pittsfield, MA	1.0018	1.0012
Pocatello, ID	0.9264	0.9490
Portland, ME	0.9501	0.9656
Portland-Vancouver, OR–WA	1.1291	1.0867
Provo-Orem, UT	0.9840	0.9890

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Raleigh-Durham-Chapel Hill, NC	0.9901	0.9932
Rapid City, SD	0.8849	0.9197
Reading, PA	0.8473	0.8927
Redding, CA	1.1222	1.0822
Reno, NV	1.0456	1.0310
Richland-Kennewick-Pasco, WA	1.0478	1.0325
Richmond-Petersburg, VA	0.9712	0.9802
Roanoke, VA	0.8468	0.8924
Rochester, MN	1.1595	1.1067
Rockford, IL	0.9080	0.9360
Sacramento, CA	1.1809	1.1206
Saginaw-Bay City-Midland, MI	0.9662	0.9767
St. Cloud, MN	1.0040	1.0027
St. Joseph, MO	0.8953	0.9271
St. Louis, MO–IL	0.8911	0.9241
Salinas, CA	1.4738	1.3042
Salt Lake City-Ogden, UT	0.9976	0.9984
San Diego, CA	1.1480	1.0991
Santa Fe, NM	1.0013	1.0009
Santa Rosa, CA	1.2408	1.1592
Sarasota-Bradenton, FL	1.0118	1.0081
Savannah, GA	0.9349	0.9549
Seattle-Bellevue-Everett, WA	1.1056	1.0712
Sherman-Denison, TX	0.8899	0.9232
Shreveport-Bossier City, LA	0.9165	0.9420
Sioux City, IA–NE	0.8868	0.9210
Sioux Falls, SD	0.9037	0.9330
South Bend, IN	1.0176	1.0120
Spokane, WA	1.0663	1.0449
Springfield, IL	0.8502	0.8948
Springfield, MO	0.8454	0.8914
Stockton-Lodi, CA	1.1114	1.0750
Syracuse, NY	0.9247	0.9478
Tampa-St. Petersburg-Clearwater, FL	0.9095	0.9371
Texarkana, AR-Texarkana, TX	0.8414	0.8885

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Toledo, OH	0.9815	0.9873
Topeka, KS	0.8850	0.9197
Tucson, AZ	0.9002	0.9305
Tulsa, OK	0.8815	0.9173
Tuscaloosa, AL	0.8265	0.8777
Tyler, TX	0.8905	0.9237
Victoria, TX	0.8212	0.8738
Waco, TX	0.8268	0.8779
Washington, DC–MD–VA–WV	1.1024	1.0690
Waterloo-Cedar Falls, IA	0.8608	0.9024
Wausau, WI	0.9516	0.9666
West Palm Beach-Boca Raton, FL	0.9785	0.9852
Wichita, KS	0.9218	0.9458
Wichita Falls, TX	0.8015	0.8594
Wilmington-Newark, DE–MD	1.0757	1.0512
Rural Alabama	0.7483	0.8199
Rural Florida	0.8733	0.9114
Rural Illinois (IA Hospital)	0.8194	0.8725
Rural Illinois (MO Hospital)	0.8140	0.8686
Rural Kentucky	0.8019	0.8597
Rural Louisiana	0.7755	0.8402
Rural Michigan	0.9115	0.9385
Rural Minnesota	0.9109	0.9381
Rural Missouri (AK Hospital)	0.7838	0.8464
Rural Missouri (KS Hospital)	0.7850	0.8472
Rural Montana	0.8642	0.9049
Rural Nebraska	0.8233	0.8753
Rural Nevada	0.9219	0.9458
Rural Oregon	1.0156	1.0107
Rural Texas	0.7673	0.8341
Rural Washington	1.0301	1.0205
Rural Wisconsin	0.9121	0.9389
Rural Wyoming	0.8855	0.9201

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

Area	Wage index	GAF	Wage index—Reclass. hospitals	GAF—Reclass. hospitals
Aguadilla, PR	0.9666	0.9770	.....	.....
Arecibo, PR	0.9555	0.9693	.....	.....
Caguas, PR	1.0523	1.0355	1.0188	1.0128
Mayaguez, PR	1.0031	1.0021	.....	.....
Ponce, PR	1.0768	1.0520	.....	.....
San Juan-Bayamon, PR	0.9817	0.9874	.....	.....
Rural Puerto Rico	0.9495	0.9651	.....	.....

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS

Urban area (Constituent counties)	Wage index
0040 Abilene, TX	0.8057
Taylor, TX	
0060 Aguadilla, PR	0.4738
Aguada, PR	
Aguadilla, PR	
Moca, PR	
0080 Akron, OH	0.9924
Portage, OH	
Summit, OH	
0120 Albany, GA	1.0675
Dougherty, GA	
Lee, GA	
0160 Albany-Schenectady-Troy, NY	0.8597
Albany, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Schoharie, NY	
0200 Albuquerque, NM	0.9855
Bernalillo, NM	
Sandoval, NM	
Valencia, NM	
0220 Alexandria, LA	0.8121
Rapides, LA	
0240 Allentown-Bethlehem-Easton, PA	0.9443
Carbon, PA	
Lehigh, PA	
Northampton, PA	
0280 Altoona, PA	0.9225
Blair, PA	
0320 Amarillo, TX	0.8706
Potter, TX	
Randall, TX	
0380 Anchorage, AK	1.2454
Anchorage, AK	
0440 Ann Arbor, MI	1.1220
Lenawee, MI	
Livingston, MI	
Washtenaw, MI	
0450 Anniston, AL	0.8360
Calhoun, AL	
0460 Appleton-Oshkosh-Neenah, WI	0.9203
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
0470 Arecibo, PR	0.4683
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
0480 Asheville, NC	0.9307
Buncombe, NC	
Madison, NC	
0500 Athens, GA	0.9956
Clarke, GA	
Madison, GA	
Oconee, GA	
0520 Atlanta, GA	1.0176
Barrow, GA	
Bartow, GA	
Carroll, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
DeKalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Pickens, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
0560 Atlantic-Cape May, NJ	1.1349
Atlantic, NJ	
Cape May, NJ	
0580 Auburn-Opelika, AL	0.8325
Lee, AL	
0600 Augusta-Aiken, GA–SC	1.0090
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Edgefield, SC	
0640 Austin-San Marcos, TX	0.9327
Bastrop, TX	
Caldwell, TX	
Hays, TX	
Travis, TX	
Williamson, TX	
0680 Bakersfield, CA	0.9387
Kern, CA	
0720 Baltimore, MD	0.9723
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Anne's, MD	
0733 Bangor, ME	0.9559
Penobscot, ME	
0743 Barnstable-Yarmouth, MA	1.3539
Barnstable, MA	
0760 Baton Rouge, LA	0.8258
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
0840 Beaumont-Port Arthur, TX	0.8508
Hardin, TX	
Jefferson, TX	
Orange, TX	
0860 Bellingham, WA	1.1963
Whatcom, WA	
0870 Benton Harbor, MI	0.8912
Berrien, MI	
0875 Bergen-Passaic, NJ	1.1549
Bergen, NJ	
Passaic, NJ	
0880 Billings, MT	0.9623
Yellowstone, MT	
0920 Biloxi-Gulfport-Pascagoula, MS	0.8538
Hancock, MS	
Harrison, MS	
Jackson, MS	
0960 Binghamton, NY	0.8595
Broome, NY	
Tioga, NY	
1000 Birmingham, AL	0.8648
Blount, AL	
Jefferson, AL	
St. Clair, AL	
Shelby, AL	
1010 Bismarck, ND	0.7955
Burleigh, ND	
Morton, ND	
1020 Bloomington, IN	0.8689
Monroe, IN	
1040 Bloomington-Normal, IL	0.8448
McLean, IL	
1080 Boise City, ID	0.9151
Ada, ID	
Canyon, ID	
1123 Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (NH Hospitals)	1.1483
Bristol, MA	
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Worcester, MA	
Hillsborough, NH	
Merrimack, NH	
Rockingham, NH	
Strafford, NH	
1125 Boulder-Longmont, CO	0.9836
Boulder, CO	
1145 Brazoria, TX	0.8299
Brazoria, TX	
1150 Bremerton, WA	1.0882
Kitsap, WA	
1240 Brownsville-Harlingen-San Benito, TX	0.8783
Cameron, TX	
1260 Bryan-College Station, TX	0.9296
Brazos, TX	
1280 Buffalo-Niagara Falls, NY	0.9405
Erie, NY	
Niagara, NY	
1303 Burlington, VT	0.9826
Chittenden, VT	
Franklin, VT	
Grand Isle, VT	
1310 Caguas, PR	0.5158
Caguas, PR	
Cayey, PR	
Cidra, PR	
Gurabo, PR	
San Lorenzo, PR	
1320 Canton-Massillon, OH	0.9059
Carroll, OH	
Stark, OH	
1350 Casper, WY	0.9606
Natrona, WY	
1360 Cedar Rapids, IA	0.8711
Linn, IA	
1400 Champaign-Urbana, IL	0.9264
Champaign, IL	
1440 Charleston-North Charleston, SC	0.9293
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
1480 Charleston, WV	0.9369
Kanawha, WV	
Putnam, WV	
1520 Charlotte-Gastonia-Rock Hill, NC–SC	0.9400

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Stanly, NC	
Union, NC	
York, SC	
1540 Charlottesville, VA	1.0688
Albemarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
1560 Chattanooga, TN–GA	0.9446
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
1580 Cheyenne, WY	0.8414
Laramie, WY	
1600 Chicago, IL	1.1011
Cook, IL	
DeKalb, IL	
DuPage, IL	
Grundy, IL	
Kane, IL	
Kendall, IL	
Lake, IL	
McHenry, IL	
Will, IL	
1620 Chico-Paradise, CA	0.9909
Butte, CA	
1640 Cincinnati, OH–KY–IN	0.9574
Dearborn, IN	
Ohio, IN	
Boone, KY	
Campbell, KY	
Gallatin, KY	
Grant, KY	
Kenton, KY	
Pendleton, KY	
Brown, OH	
Clermont, OH	
Hamilton, OH	
Warren, OH	
1660 Clarksville-Hopkinsville, TN–KY	0.8433
Christian, KY	
Montgomery, TN	
1680 Cleveland-Lorain-Elyria, OH	0.9496
Ashtabula, OH	
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Lorain, OH	
Medina, OH	
1720 Colorado Springs, CO	0.9754
El Paso, CO	
1740 Columbia, MO	0.8787
Boone, MO	
1760 Columbia, SC	0.9589
Lexington, SC	
Richland, SC	
1800 Columbus, GA–AL	0.8471
Russell, AL	
Chattahoochee, GA	
Harris, GA	
Muscogee, GA	
1840 Columbus, OH	0.9724
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
1880 Corpus Christi, TX	0.8203
Nueces, TX	
San Patricio, TX	
1890 Corvallis, OR	1.1781
Benton, OR	
1900 Cumberland, MD–WV (WV Hospital)	0.8402
Allegany, MD	
Mineral, WV	
1920 Dallas, TX	0.9506
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Henderson, TX	
Hunt, TX	
Kaufman, TX	
Rockwall, TX	
1950 Danville, VA	0.8641
Danville City, VA	
Pittsylvania, VA	
1960 Davenport-Moline-Rock Island, IA–IL	0.8790
Scott, IA	
Henry, IL	
Rock Island, IL	
2000 Dayton-Springfield, OH	0.9323
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
2020 Daytona Beach, FL	0.9069
Flagler, FL	
Volusia, FL	
2030 Decatur, AL	0.8817
Lawrence, AL	
Morgan, AL	
2040 Decatur, IL	0.8056
Macon, IL	
2080 Denver, CO	1.0289
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
2120 Des Moines, IA	0.8881
Dallas, IA	
Polk, IA	
Warren, IA	
2160 Detroit, MI	1.0478
Lapeer, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
St. Clair, MI	
Wayne, MI	
2180 Dothan, AL	0.7959
Dale, AL	
Houston, AL	
2190 Dover, DE	1.0453
Kent, DE	
2200 Dubuque, IA	0.8617
Dubuque, IA	
2240 Duluth-Superior, MN–WI	1.0401
St. Louis, MN	
Douglas, WI	
2281 Dutchess County, NY	1.0639
Dutchess, NY	
2290 Eau Claire, WI	0.8893
Chippewa, WI	
Eau Claire, WI	
2320 El Paso, TX	0.9162
El Paso, TX	
2330 Elkhart-Goshen, IN	0.9646
Elkhart, IN	
2335 Elmira, NY	0.8530
Chemung, NY	
2340 Enid, OK	0.8454
Garfield, OK	
2360 Erie, PA	0.8911
Erie, PA	
2400 Eugene-Springfield, OR	1.1485
Lane, OR	
2440 Evansville-Henderson, IN–KY (IN Hospitals)	0.7808
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
2520 Fargo-Moorhead, ND–MN	0.9374
Clay, MN	
Cass, ND	
2560 Fayetteville, NC	0.9132
Cumberland, NC	
2580 Fayetteville-Springdale-Rogers, AR	0.7587
Benton, AR	
Washington, AR	
2620 Flagstaff, AZ–UT	1.0678
Coconino, AZ	
Kane, UT	
2640 Flint, MI	1.0920
Genesee, MI	
2650 Florence, AL	0.7875
Colbert, AL	
Lauderdale, AL	
2655 Florence, SC	0.8843
Florence, SC	
2670 Fort Collins-Loveland, CO	1.0161
Larimer, CO	
2680 Ft. Lauderdale, FL	1.0407
Broward, FL	
2700 Fort Myers-Cape Coral, FL	0.9380
Lee, FL	
2710 Fort Pierce-Port St. Lucie, FL	1.0067
Martin, FL	
St. Lucie, FL	
2720 Fort Smith, AR–OK	0.8076
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
2750 Fort Walton Beach, FL	0.8695
Okaloosa, FL	
2760 Fort Wayne, IN	0.9186
Adams, IN	
Allen, IN	
De Kalb, IN	
Huntington, IN	
Wells, IN	
Whitley, IN	
2800 Forth Worth-Arlington, TX	0.9452
Hood, TX	
Johnson, TX	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Parker, TX	
Tarrant, TX	
2840 Fresno, CA	0.9972
Fresno, CA	
Madera, CA	
2880 Gadsden, AL	0.8845
Etowah, AL	
2900 Gainesville, FL	1.2133
Alachua, FL	
2920 Galveston-Texas City, TX	1.0271
Galveston, TX	
2960 Gary, IN	0.9571
Lake, IN	
Porter, IN	
2975 Glens Falls, NY	0.8432
Warren, NY	
Washington, NY	
2980 Goldsboro, NC	0.8810
Wayne, NC	
2985 Grand Forks, ND–MN	0.9173
Polk, MN	
Grand Forks, ND	
2995 Grand Junction, CO	0.9579
Mesa, CO	
3000 Grand Rapids-Muskegon-Holland, MI	1.0161
Allegan, MI	
Kent, MI	
Muskegon, MI	
Ottawa, MI	
3040 Great Falls, MT	0.8972
Cascade, MT	
3060 Greeley, CO	0.9604
Weld, CO	
3080 Green Bay, WI	0.9269
Brown, WI	
3120 Greensboro-Winston-Salem-High Point, NC	0.9616
Alamance, NC	
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
3150 Greenville, NC	0.9963
Pitt, NC	
3160 Greenville-Spartanburg-Anderson, SC	0.9096
Anderson, SC	
Cherokee, SC	
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
3180 Hagerstown, MD	0.8462
Washington, MD	
3200 Hamilton-Middletown, OH	0.9269
Butler, OH	
3240 Harrisburg-Lebanon-Carlisle, PA	0.9311
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
3283 Hartford, CT	1.1536
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
3285 [2] Hattiesburg, MS	0.7559
Forrest, MS	
Lamar, MS	
3290 Hickory-Morganton-Lenoir, NC	0.9517
Alexander, NC	
Burke, NC	
Caldwell, NC	
Catawba, NC	
3320 Honolulu, HI	1.1653
Honolulu, HI	
3350 Houma, LA	0.8043
Lafourche, LA	
Terrebonne, LA	
3360 Houston, TX	0.9604
Chambers, TX	
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
3400 Huntington-Ashland, WV–KY–OH	0.9700
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
3440 Huntsville, AL	0.8854
Limestone, AL	
Madison, AL	
3480 Indianapolis, IN	0.9771
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Madison, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
3500 Iowa City, IA	0.9973
Johnson, IA	
3520 Jackson, MI	0.9387
Jackson, MI	
3560 Jackson, MS	0.8589
Hinds, MS	
Madison, MS	
Rankin, MS	
3580 Jackson, TN	0.9117
Madison, TN	
Chester, TN	
3600 Jacksonville, FL	0.9040
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
3605 Jacksonville, NC	0.7710
Onslow, NC	
3610 Jamestown, NY	0.8143
Chautauqua, NY	
3620 Janesville-Beloit, WI	0.9840
Rock, WI	
3640 Jersey City, NJ	1.1216
Hudson, NJ	
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8540
Carter, TN	
Hawkins, TN	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
3680 Johnstown, PA	0.8959
Cambria, PA	
Somerset, PA	
3700 Jonesboro, AR	0.8523
Craighead, AR	
3710 Joplin, MO	0.8736
Jasper, MO	
Newton, MO	
3720 Kalamazoo-Battlecreek, MI	1.0696
Calhoun, MI	
Kalamazoo, MI	
Van Buren, MI	
3740 Kankakee, IL	0.9268
Kankakee, IL	
3760 Kansas City, KS–MO	0.9430
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Clinton, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
3800 Kenosha, WI	0.9678
Kenosha, WI	
3810 Killeen-Temple, TX	0.7376
Bell, TX	
Coryell, TX	
3840 Knoxville, TN	0.8904
Anderson, TN	
Blount, TN	
Knox, TN	
Loudon, TN	
Sevier, TN	
Union, TN	
3850 Kokomo, IN	0.9232
Howard, IN	
Tipton, IN	
3870 La Crosse, WI–MN	0.9328
Houston, MN	
La Crosse, WI	
3880 Lafayette, LA	0.8600
Acadia, LA	
Lafayette, LA	
St. Landry, LA	
St. Martin, LA	
3920 Lafayette, IN	0.9165
Clinton, IN	
Tippecanoe, IN	
3960 Lake Charles, LA	0.7810
Calcasieu, LA	
3980 Lakeland-Winter Haven, FL	0.9167
Polk, FL	
4000 Lancaster, PA	0.9413
Lancaster, PA	
4040 Lansing-East Lansing, MI	0.9653
Clinton, MI	
Eaton, MI	
Ingham, MI	
4080 Laredo, TX	0.7877
Webb, TX	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
4100 Las Cruces, NM	0.8721
Dona Ana, NM	
4120 Las Vegas, NV–AZ	1.1238
Mohave, AZ	
Clark, NV	
Nye, NV	
4150 Lawrence, KS	0.8756
Douglas, KS	
4200 Lawton, OK	0.8783
Comanche, OK	
4243 Lewiston-Auburn, ME	0.9451
Androscoggin, ME	
4280 Lexington, KY	0.8850
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Madison, KY	
Scott, KY	
Woodford, KY	
4320 Lima, OH	0.9558
Allen, OH	
Auglaize, OH	
4360 Lincoln, NE	1.0272
Lancaster, NE	
4400 Little Rock-North Little Rock, AR	0.9053
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
4420 Longview-Marshall, TX	0.8322
Gregg, TX	
Harrison, TX	
Upshur, TX	
4480 Los Angeles-Long Beach, CA	1.2062
Los Angeles, CA	
4520 [1] Louisville, KY–IN	0.9596
Clark, IN	
Floyd, IN	
Harrison, IN	
Scott, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
4600 Lubbock, TX	0.8547
Lubbock, TX	
4640 Lynchburg, VA	0.9208
Amherst, VA	
Bedford, VA	
Bedford City, VA	
Campbell, VA	
Lynchburg City, VA	
4680 Macon, GA	0.9064
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Twiggs, GA	
4720 Madison, WI	1.0456
Dane, WI	
4800 Mansfield, OH	0.8809
Crawford, OH	
Richland, OH	
4840 Mayaguez, PR	0.4917
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
Sabana Grande, PR	
San German, PR	
4880 McAllen-Edinburg-Mission, TX	0.8433
Hidalgo, TX	
4890 Medford-Ashland, OR	1.0433
Jackson, OR	
4900 Melbourne-Titusville-Palm Bay, FL	0.9857
Brevard, FL	
4920 Memphis, TN–AR–MS	0.9435
Crittenden, AR	
DeSoto, MS	
Fayette, TN	
Shelby, TN	
Tipton, TN	
4940 Merced, CA	0.9870
Merced, CA	
5000 Miami, FL	0.9934
Dade, FL	
5015 Middlesex-Somerset-Hunterdon, NJ	1.1952
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
5080 Milwaukee-Waukesha, WI	0.9898
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
5120 Minneapolis-St. Paul, MN–WI	1.1000
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Sherburne, MN	
Washington, MN	
Wright, MN	
Pierce, WI	
St. Croix, WI	
5140 Missoula, MT	0.9453
Missoula, MT	
5160 Mobile, AL	0.7754
Baldwin, AL	
Mobile, AL	
5170 Modesto, CA	1.0945
Stanislaus, CA	
5190 Monmouth-Ocean, NJ	1.0930
Monmouth, NJ	
Ocean, NJ	
5200 Monroe, LA	0.8296
Ouachita, LA	
5240 Montgomery, AL	0.7502
Autauga, AL	
Elmore, AL	
Montgomery, AL	
5280 Muncie, IN	0.9689
Delaware, IN	
5330 Myrtle Beach, SC	0.8855
Horry, SC	
5345 Naples, FL	0.9566
Collier, FL	
5360 Nashville, TN	0.9602
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
5380 Nassau-Suffolk, NY	1.3841
Nassau, NY	
Suffolk, NY	
5483 New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2267
Fairfield, CT	
New Haven, CT	
5523 New London-Norwich, CT	1.1578
New London, CT	
5560 New Orleans, LA	0.9054
Jefferson, LA	
Orleans, LA	
Plaquemines, LA	
St. Bernard, LA	
St. Charles, LA	
St. James, LA	
St. John The Baptist, LA	
St. Tammany, LA	
5600 New York, NY	1.3893
Bronx, NY	
Kings, NY	
New York, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
5640 Newark, NJ	1.2004
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Warren, NJ	
5660 Newburgh, NY–PA	1.1235
Orange, NY	
Pike, PA	
5720 Norfolk-Virginia Beach-Newport News, VA–NC	0.8629
Currituck, NC	
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
Isle of Wight, VA	
James City, VA	
Mathews, VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson City, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City VA	
Williamsburg City, VA	
York, VA	
5775 Oakland, CA	1.5416
Alameda, CA	
Contra Costa, CA	
5790 Ocala, FL	0.9579
Marion, FL	
5800 Odessa-Midland, TX	0.9017
Ector, TX	
Midland, TX	
5880 Oklahoma City, OK	0.8728
Canadian, OK	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
5910 Olympia, WA	1.1481
Thurston, WA	
5920 Omaha, NE–IA	0.9696
Pottawattamie, IA	
Cass, NE	
Douglas, NE	
Sarpy, NE	
Washington, NE	
5945 Orange County, CA	1.1242
Orange, CA	
5960 Orlando, FL	0.9464
Lake, FL	
Orange, FL	
Osceola, FL	
Seminole, FL	
5990 Owensboro, KY	0.8346
Daviess, KY	
6015 Panama City, FL	0.9166
Bay, FL	
6020 Parkersburg-Marietta, WV–OH	0.8192
Washington, OH	
Wood, WV	
6080 Pensacola, FL	0.8367
Escambia, FL	
Santa Rosa, FL	
6120 Peoria-Pekin, IL	0.8883
Peoria, IL	
Tazewell, IL	
Woodford, IL	
6160 Philadelphia, PA–NJ	1.0626
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Salem, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
6200 Phoenix-Mesa, AZ	0.9654
Maricopa, AZ	
Pinal, AZ	
6240 Pine Bluff, AR	0.7837
Jefferson, AR	
6280 Pittsburgh, PA	0.9714
Allegheny, PA	
Beaver, PA	
Butler, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
6323 Pittsfield, MA	1.0396
Berkshire, MA	
6340 Pocatello, ID	0.9557
Bannock, ID	
6360 Ponce, PR	0.5278
Guayanilla, PR	
Juana Diaz, PR	
Penuelas, PR	
Ponce, PR	
Villalba, PR	
Yauco, PR	
6403 Portland, ME	0.9501
Cumberland, ME	
Sagadahoc, ME	
York, ME	
6440 Portland-Vancouver, OR–WA	1.1263
Clackamas, OR	
Columbia, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Clark, WA	
6483 Providence-Warwick-Pawtucket, RI	1.0781
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
6520 Provo-Orem, UT	0.9967
Utah, UT	
6560 Pueblo, CO	0.8704
Pueblo, CO	
6580 Punta Gorda, FL	0.8818
Charlotte, FL	
6600 Racine, WI	0.9441
Racine, WI	
6640 Raleigh-Durham-Chapel Hill, NC	0.9901
Chatham, NC	
Durham, NC	
Franklin, NC	
Johnston, NC	
Orange, NC	
Wake, NC	
6660 Rapid City, SD	0.8971
Pennington, SD	
6680 Reading, PA	0.6780
Berks, PA	
6690 Redding, CA	1.1222
Shasta, CA	
6720 Reno, NV	1.0456
Washoe, NV	
6740 Richland-Kennewick-Pasco, WA	1.1086
Benton, WA	
Franklin, WA	
6760 Richmond-Petersburg, VA	0.9712
Charles City County, VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
6780 Riverside-San Bernardino, CA	1.1012
Riverside, CA	
San Bernardino, CA	
6800 Roanoke, VA	0.8468
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
6820 Rochester, MN	1.1595
Olmsted, MN	
6840 Rochester, NY	0.9238
Genesee, NY	
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
6880 Rockford, IL	0.9194
Boone, IL	
Ogle, IL	
Winnebago, IL	
6895 Rocky Mount, NC	0.9197
Edgecombe, NC	
Nash, NC	
6920 Sacramento, CA	1.1809
El Dorado, CA	
Placer, CA	
Sacramento, CA	
6960 Saginaw-Bay City-Midland, MI	0.9662
Bay, MI	
Midland, MI	
Saginaw, MI	
6980 St. Cloud, MN	0.9966
Benton, MN	
Stearns, MN	
7000 St. Joseph, MO	0.9113
Andrew, MO	
Buchanan, MO	
7040 St. Louis, MO–IL	0.9024
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
Lincoln, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Warren, MO	
7080 Salem, OR	1.0127
Marion, OR	
Polk, OR	
7120 Salinas, CA	1.4854
Monterey, CA	
7160 Salt Lake City-Ogden, UT	0.9976
Davis, UT	
Salt Lake, UT	
Weber, UT	
7200 San Angelo, TX	0.8288
Tom Green, TX	
7240 San Antonio, TX	0.8333
Bexar, TX	
Comal, TX	
Guadalupe, TX	
Wilson, TX	
7320 San Diego, CA	1.1480
San Diego, CA	
7360 San Francisco, CA	1.4319
Marin, CA	
San Francisco, CA	
San Mateo, CA	
7400 San Jose, CA	1.4249
Santa Clara, CA	
7440 San Juan-Bayamon, PR	0.4812
Aguas Buenas, PR	
Barceloneta, PR	
Bayamon, PR	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Canovanas, PR	
Carolina, PR	
Catano, PR	
Ceiba, PR	
Comerio, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Morovis, PR	
Naguabo, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trujillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Yabucoa, PR	
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.1117
San Luis Obispo, CA	
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.0927
Santa Barbara, CA	
7485 Santa Cruz-Watsonville, CA	1.4049
Santa Cruz, CA	
7490 Santa Fe, NM	1.0312
Los Alamos, NM	
Santa Fe, NM	
7500 Santa Rosa, CA	1.2727
Sonoma, CA	
7510 Sarasota-Bradenton, FL	1.0118
Manatee, FL	
Sarasota, FL	
7520 Savannah, GA	0.9349
Bryan, GA	
Chatham, GA	
Effingham, GA	
7560 Scranton—Wilkes-Barre—Hazleton, PA	0.8071
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Wyoming, PA	
7600 Seattle-Bellevue-Everett, WA	1.1040
Island, WA	
King, WA	
Snohomish, WA	
7610 Sharon, PA	0.8013
Mercer, PA	
7620 Sheboygan, WI	0.8524
Sheboygan, WI	
7640 Sherman-Denison, TX	0.9163
Grayson, TX	
7680 Shreveport-Bossier City, LA	0.9165
Bossier, LA	
Caddo, LA	
Webster, LA	
7720 Sioux City, IA–NE	0.8868
Woodbury, IA	
Dakota, NE	
7760 Sioux Falls, SD	0.9245
Lincoln, SD	
Minnehaha, SD	
7800 South Bend, IN	1.0303
St. Joseph, IN	
7840 Spokane, WA	1.0791
Spokane, WA	
7880 Springfield, IL	0.8502
Menard, IL	
Sangamon, IL	
7920 Springfield, MO	0.8666
Christian, MO	
Greene, MO	
Webster, MO	
8003 Springfield, MA	1.0747
Hampden, MA	
Hampshire, MA	
8050 State College, PA	0.9239
Centre, PA	
8080 Steubenville-Weirton, OH–WV (WV Hospitals)	0.8737
Jefferson, OH	
Brooke, WV	
Hancock, WV	
8120 Stockton-Lodi, CA	1.0939
San Joaquin, CA	
8140 Sumter, SC	0.7884
Sumter, SC	
8160 Syracuse, NY	0.9243
Cayuga, NY	
Madison, NY	
Onondaga, NY	
Oswego, NY	
8200 Tacoma, WA	1.1751
Pierce, WA	
8240 Tallahassee, FL	0.8402
Gadsden, FL	
Leon, FL	
8280 Tampa-St. Petersburg-Clearwater, FL	0.8994
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
8320 Terre Haute, IN	0.8498
Clay, IN	
Vermillion, IN	
Vigo, IN	
8360 Texarkana, AR-Texarkana, TX	0.8414
Miller, AR	
Bowie, TX	
8400 Toledo, OH	0.9815
Fulton, OH	
Lucas, OH	
Wood, OH	
8440 Topeka, KS	0.9015
Shawnee, KS	
8480 Trenton, NJ	1.0172
Mercer, NJ	
8520 Tucson, AZ	0.8990
Pima, AZ	
8560 Tulsa, OK	0.8949
Creek, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
8600 Tuscaloosa, AL	0.8265
Tuscaloosa, AL	
8640 Tyler, TX	0.9109
Smith, TX	
8680 Utica-Rome, NY	0.8425
Herkimer, NY	
Oneida, NY	
8720 Vallejo-Fairfield-Napa, CA	1.3535
Napa, CA	
Solano, CA	
8735 Ventura, CA	1.1088
Ventura, CA	
8750 Victoria, TX	0.8354
Victoria, TX	
8760 Vineland-Millville-Bridgeton, NJ	1.0473
Cumberland, NJ	
8780 Visalia-Tulare-Porterville, CA	0.9706
Tulare, CA	
8800 Waco, TX	0.8249
McLennan, TX	
8840 Washington, DC–MD–VA–WV	1.1176
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Clarke, VA	
Culpeper, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Fauquier, VA	
Fredericksburg City, VA	
King George, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Spotsylvania, VA	
Stafford, VA	
Warren, VA	
Berkeley, WV	
Jefferson, WV	
8920 Waterloo-Cedar Falls, IA	0.8134
Black Hawk, IA	
8940 Wausau, WI	0.9455
Marathon, WI	
8960 West Palm Beach-Boca Raton, FL	0.9785
Palm Beach, FL	
9000 Wheeling, WV–OH	0.8077
Belmont, OH	
Marshall, WV	
Ohio, WV	
9040 Wichita, KS	0.9541
Butler, KS	
Harvey, KS	
Sedgwick, KS	
9080 Wichita Falls, TX	0.7933
Archer, TX	
Wichita, TX	
9140 Williamsport, PA	0.8503
Lycoming, PA	
9160 Wilmington-Newark, DE–MD	1.0757

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
New Castle, DE	
Cecil, MD	
9200 Wilmington, NC	0.9971
New Hanover, NC	
Brunswick, NC	
9260 Yakima, WA	1.0690
Yakima, WA	
9270 Yolo, CA	0.9830
Yolo, CA	
9280 York, PA	0.7840
York, PA	
9320 Youngstown-Warren, OH	0.9480
Columbiana, OH	
Mahoning, OH	
Trumbull, OH	
9340 Yuba City, CA	1.0479
Sutter, CA	
Yuba, CA	
9360 Yuma, AZ	0.8904
Yuma, AZ	

TABLE 4H.—PRE-RECLASSIFIED WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	0.7420
Alaska	1.2006
Arizona	0.8747
Arkansas	0.7561
California	0.9870
Colorado	0.8909
Connecticut	1.2357
Delaware	0.9487
Florida	0.8709
Georgia	0.8341
Hawaii	1.1235
Idaho	0.8820
Illinois	0.8140
Indiana	0.8757
Iowa	0.8194
Kansas	0.7850
Kentucky	0.8019
Louisiana	0.7649
Maine	0.8714
Maryland	0.8962
Massachusetts	1.1586
Michigan	0.9106
Minnesota	0.9109
Mississippi	0.7612
Missouri	0.7826
Montana	0.8642
Nebraska	0.8233
Nevada	0.9785
New Hampshire	0.9914
New Jersey [1]	.....
New Mexico	0.8835
New York	0.8530
North Carolina	0.8634
North Dakota	0.7965
Ohio	0.8761
Oklahoma	0.7646
Oregon	1.0150
Pennsylvania	0.8473
Puerto Rico	0.4654
Rhode Island [1]	.....
South Carolina	0.8606
South Dakota	0.7934
Tennessee	0.7901
Texas	0.7671
Utah	0.9156
Vermont	0.9576
Virginia	0.8473
Washington	1.0301
West Virginia	0.8145
Wisconsin	0.9118
Wyoming	0.8855 –

[1] All counties within the State are classified as urban.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
1	01	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.2546	7.6	10.2
2	01	SURG	CRANIOTOMY FOR TRAUMA AGE >17	3.3742	8.8	11.1
3	01	SURG	*CRANIOTOMY AGE 0–17	1.9527	12.7	12.7
4	01	SURG	SPINAL PROCEDURES	2.4074	5.5	8.1
5	01	SURG	EXTRACRANIAL VASCULAR PROCEDURES	1.3612	2.3	3.2
6	01	SURG	CARPAL TUNNEL RELEASE	.7238	2.1	3.0
7	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.6736	8.5	11.3
8	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	1.3727	2.3	3.4
9	01	MED	SPINAL DISORDERS & INJURIES	1.3411	5.3	7.0
10	01	MED	NERVOUS SYSTEM NEOPLASMS W CC	1.2655	5.5	7.2
11	01	MED	NERVOUS SYSTEM NEOPLASMS W/O CC	.8455	3.3	4.3
12	01	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	.8985	4.9	6.3
13	01	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.8107	4.5	5.5
14	01	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.1667	4.8	6.1
15	01	MED	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	.7349	3.0	3.7
16	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.1833	5.1	6.5
17	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	.6706	2.7	3.5
18	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	.9762	4.6	5.8
19	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.6770	3.1	3.9
20	01	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.7628	9.0	11.4
21	01	MED	VIRAL MENINGITIS	1.4606	5.6	7.1
22	01	MED	HYPERTENSIVE ENCEPHALOPATHY	1.0073	4.0	5.1
23	01	MED	NONTRAUMATIC STUPOR & COMA	.8101	3.4	4.4
24	01	MED	SEIZURE & HEADACHE AGE >17 W CC	1.0182	4.0	5.3
25	01	MED	SEIZURE & HEADACHE AGE >17 W/O CC	.5945	2.7	3.3
26	01	MED	SEIZURE & HEADACHE AGE 0–17	.5846	2.3	2.8
27	01	MED	TRAUMATIC STUPOR & COMA, COMA >1 HR	1.3456	3.7	5.6
28	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W CC	1.3526	5.2	6.8
29	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	.6903	3.0	3.8
30	01	MED	*TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0–17	.3303	2.0	2.0
31	01	MED	CONCUSSION AGE >17 W CC	.9098	3.5	4.8

*MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM 19 STATES FOR LOW VOLUME DRGS.
** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.
NOTE: ARITHMETIC MEAN IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
32	01	MED	CONCUSSION AGE >17 W/O CC	.5191	2.0	2.6
33	01	MED	*CONCUSSION AGE 0–17	.2075	1.6	1.6
34	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.0065	4.2	5.4
35	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	.5886	2.7	3.5
36	02	SURG	RETINAL PROCEDURES	.6586	1.2	1.5
37	02	SURG	ORBITAL PROCEDURES	1.1220	2.9	4.3
38	02	SURG	PRIMARY IRIS PROCEDURES	.4730	2.0	2.6
39	02	SURG	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	.5882	1.5	1.9
40	02	SURG	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.8274	2.4	3.6
41	02	SURG	*EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0–17	.3362	1.6	1.6
42	02	SURG	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	.6273	1.6	2.3
43	02	MED	HYPHEMA	.4570	2.8	3.3
44	02	MED	ACUTE MAJOR EYE INFECTIONS	.6556	4.3	5.2
45	02	MED	NEUROLOGICAL EYE DISORDERS	.6765	2.7	3.3
46	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W CC	.7983	3.9	5.0
47	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	.5013	2.6	3.4
48	02	MED	*OTHER DISORDERS OF THE EYE AGE 0–17	.2962	2.9	2.9
49	03	SURG	MAJOR HEAD & NECK PROCEDURES	1.7590	3.8	5.2
50	03	SURG	SIALOADENECTOMY	.8139	1.5	1.9
51	03	SURG	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	.7928	1.8	2.7
52	03	SURG	CLEFT LIP & PALATE REPAIR	.7608	1.5	1.9
53	03	SURG	SINUS & MASTOID PROCEDURES AGE >17	1.1741	2.3	3.7
54	03	SURG	*SINUS & MASTOID PROCEDURES AGE 0–17	.4801	3.2	3.2
55	03	SURG	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES	.8500	1.8	2.7
56	03	SURG	RHINOPLASTY	.8771	2.0	2.7
57	03	SURG	T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17.	1.1547	2.8	4.2
58	03	SURG	*T&A PROC, EXCEPT TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0–17.	.2726	1.5	1.5
59	03	SURG	TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE >17	.8324	1.9	2.8
60	03	SURG	*TONSILLECTOMY &/OR ADENOIDECTOMY ONLY, AGE 0–17	.2076	1.5	1.5
61	03	SURG	MYRINGOTOMY W TUBE INSERTION AGE >17	1.3536	3.2	5.6
62	03	SURG	*MYRINGOTOMY W TUBE INSERTION AGE 0–17	.2940	1.3	1.3
63	03	SURG	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.3658	3.3	4.7
64	03	MED	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.2289	4.8	6.9
65	03	MED	DYSEQUILIBRIUM	.5321	2.4	2.9
66	03	MED	EPISTAXIS	.5538	2.6	3.3
67	03	MED	EPIGLOTTITIS	.7556	3.0	3.7
68	03	MED	OTITIS MEDIA & URI AGE >17 W CC	.6687	3.6	4.3
69	03	MED	OTITIS MEDIA & URI AGE >17 W/O CC	.4988	2.8	3.4
70	03	MED	OTITIS MEDIA & URI AGE 0–17	.4556	2.5	3.0
71	03	MED	LARYNGOTRACHEITIS	.6714	3.1	4.0
72	03	MED	NASAL TRAUMA & DEFORMITY	.6722	2.9	3.7
73	03	MED	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	.8016	3.6	4.7
74	03	MED	*OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0–17	.3341	2.1	2.1
75	04	SURG	MAJOR CHEST PROCEDURES	3.2016	8.8	10.8
76	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.9628	10.0	12.6
77	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.2254	4.1	5.4
78	04	MED	PULMONARY EMBOLISM	1.3317	6.3	7.2
79	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	1.7116	7.6	9.3
80	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	.9285	5.0	6.0
81	04	MED	*RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0–17	1.5125	6.1	6.1
82	04	MED	RESPIRATORY NEOPLASMS	1.4325	6.0	7.6
83	04	MED	MAJOR CHEST TRAUMA W CC	.9783	4.8	5.9
84	04	MED	MAJOR CHEST TRAUMA W/O CC	.5455	2.9	3.5
85	04	MED	PLEURAL EFFUSION W CC	1.2505	5.5	6.9
86	04	MED	PLEURAL EFFUSION W/O CC	.6776	3.0	3.8
87	04	MED	PULMONARY EDEMA & RESPIRATORY FAILURE	1.4280	5.5	6.9
88	04	MED	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	.9137	4.5	5.4
89	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.0636	5.3	6.3
90	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	.6385	3.7	4.3
91	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE 0–17	.8141	3.9	4.8
92	04	MED	INTERSTITIAL LUNG DISEASE W CC	1.2313	5.6	6.8
93	04	MED	INTERSTITIAL LUNG DISEASE W/O CC	.7311	3.5	4.2
94	04	MED	PNEUMOTHORAX W CC	1.2011	5.4	6.9
95	04	MED	PNEUMOTHORAX W/O CC	.5833	3.2	3.9

*MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM 19 STATES FOR LOW VOLUME DRGS.
** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.
NOTE: ARITHMETIC MEAN IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
96	04	MED	BRONCHITIS & ASTHMA AGE >17 W CC	.7638	4.1	4.9
97	04	MED	BRONCHITIS & ASTHMA AGE >17 W/O CC	.5664	3.2	3.8
98	04	MED	BRONCHITIS & ASTHMA AGE 0–17	.7073	3.1	4.4
99	04	MED	RESPIRATORY SIGNS & SYMPTOMS W CC	.6971	2.6	3.3
100	04	MED	RESPIRATORY SIGNS & SYMPTOMS W/O CC	.5206	1.8	2.2
101	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	.8605	3.6	4.7
102	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	.5226	2.1	2.7
103	PRE	SURG	HEART TRANSPLANT	19.8195	38.6	57.5
104	05	SURG	CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W CARD CATH.	7.7605	13.2	15.3
105	05	SURG	CARDIAC VALVE & OTH MAJOR CARDIOTHORACIC PROC W/O CARD CATH.	5.6465	8.8	10.4
106	05	SURG	CORONARY BYPASS W PTCA	7.4382	10.7	12.3
107	05	SURG	CORONARY BYPASS W CARDIAC CATH	5.3005	9.7	10.9
108	05	SURG	OTHER CARDIOTHORACIC PROCEDURES	5.4994	9.2	11.2
109	05	SURG	CORONARY BYPASS W/O PTCA OR CARDIAC CATH	3.8957	7.0	8.0
110	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.1492	8.1	10.2
111	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.2835	4.3	5.1
112	05	SURG	NO LONGER VALID	.0000	.0	.0
113	05	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE.	2.6625	9.8	12.8
114	05	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	1.6689	7.2	9.3
115	05	SURG	PRM CARD PACEM IMPL W AMI, HRT FAIL OR SHK, OR AICD LEAD OR GN.	3.3784	7.2	9.2
116	05	SURG	OTHER PERMANENT CARDIAC PACEMAKER IMPLANT	2.2011	3.6	4.8
117	05	SURG	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT	1.3197	2.8	4.4
118	05	SURG	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.4322	1.8	2.7
119	05	SURG	VEIN LIGATION & STRIPPING	1.3557	3.3	5.3
120	05	SURG	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.3452	6.7	9.9
121	05	MED	CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE.	1.5799	5.6	6.9
122	05	MED	CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE.	1.0268	3.2	3.9
123	05	MED	CIRCULATORY DISORDERS W AMI, EXPIRED	1.5882	3.2	5.0
124	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG.	1.4057	3.6	4.6
125	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG.	1.0395	2.2	2.8
126	05	MED	ACUTE & SUBACUTE ENDOCARDITIS	2.6700	10.5	12.9
127	05	MED	HEART FAILURE & SHOCK	1.0110	4.5	5.6
128	05	MED	DEEP VEIN THROMBOPHLEBITIS	.7343	5.2	5.9
129	05	MED	CARDIAC ARREST, UNEXPLAINED	1.0273	1.7	2.8
130	05	MED	PERIPHERAL VASCULAR DISORDERS W CC	.9401	5.0	6.1
131	05	MED	PERIPHERAL VASCULAR DISORDERS W/O CC	.5775	3.8	4.5
132	05	MED	ATHEROSCLEROSIS W CC	.6490	2.5	3.1
133	05	MED	ATHEROSCLEROSIS W/O CC	.5567	1.9	2.3
134	05	MED	HYPERTENSION	.5829	2.7	3.4
135	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC	.9117	3.7	4.8
136	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC.	.5606	2.2	2.8
137	05	MED	*CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0–17	.8150	3.3	3.3
138	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	.8231	3.3	4.2
139	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	.4973	2.1	2.5
140	05	MED	ANGINA PECTORIS	.5367	2.2	2.7
141	05	MED	SYNCOPE & COLLAPSE W CC	.7231	3.0	3.8
142	05	MED	SYNCOPE & COLLAPSE W/O CC	.5392	2.2	2.7
143	05	MED	CHEST PAIN	.5198	1.7	2.1
144	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.1995	4.3	5.8
145	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	.5919	2.2	2.8
146	06	SURG	RECTAL RESECTION W CC	2.7740	9.6	10.8
147	06	SURG	RECTAL RESECTION W/O CC	1.6036	6.2	6.7
148	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.5315	11.1	13.1
149	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.5103	6.2	6.7
150	06	SURG	PERITONEAL ADHESIOLYSIS W CC	2.9493	10.5	12.2
151	06	SURG	PERITONEAL ADHESIOLYSIS W/O CC	1.3502	5.3	6.3
152	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.9465	7.4	8.7

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TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
153	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.1614	5.1	5.6
154	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC.	4.3487	11.9	14.7
155	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC.	1.3356	3.5	4.5
156	06	SURG	*STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0–17	.8392	6.0	6.0
157	06	SURG	ANAL & STOMAL PROCEDURES W CC	1.2606	4.4	5.9
158	06	SURG	ANAL & STOMAL PROCEDURES W/O CC	.6237	2.0	2.5
159	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC.	1.3620	4.2	5.4
160	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC.	.7678	2.2	2.7
161	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	1.1388	3.2	4.5
162	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	.6145	1.6	1.9
163	06	SURG	*HERNIA PROCEDURES AGE 0–17	.6885	2.1	2.1
164	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	2.3980	7.8	9.0
165	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.3000	4.5	5.0
166	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.4919	4.2	5.4
167	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	.8778	2.2	2.6
168	03	SURG	MOUTH PROCEDURES W CC	1.3056	3.6	5.2
169	03	SURG	MOUTH PROCEDURES W/O CC	.6981	1.8	2.3
170	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	3.0651	9.6	12.7
171	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.1773	3.9	5.0
172	06	MED	DIGESTIVE MALIGNANCY W CC	1.3972	5.9	7.6
173	06	MED	DIGESTIVE MALIGNANCY W/O CC	.6929	2.9	3.9
174	06	MED	G.I. HEMORRHAGE W CC	.9915	4.1	5.1
175	06	MED	G.I. HEMORRHAGE W/O CC	.5435	2.6	3.0
176	06	MED	COMPLICATED PEPTIC ULCER	1.0908	4.4	5.6
177	06	MED	UNCOMPLICATED PEPTIC ULCER W CC	.8938	3.9	4.8
178	06	MED	UNCOMPLICATED PEPTIC ULCER W/O CC	.6424	2.7	3.2
179	06	MED	INFLAMMATORY BOWEL DISEASE	1.0861	5.1	6.4
180	06	MED	G.I. OBSTRUCTION W CC	.9581	4.6	5.7
181	06	MED	G.I. OBSTRUCTION W/O CC	.5245	3.0	3.5
182	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC.	.7959	3.6	4.6
183	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC.	.5586	2.4	3.0
184	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0–17.	.4123	2.5	3.0
185	03	MED	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17.	.8675	3.6	4.8
186	03	MED	*DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0–17.	.3199	2.9	2.9
187	03	MED	DENTAL EXTRACTIONS & RESTORATIONS	.7960	3.2	4.2
188	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.1234	4.6	6.0
189	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	.5791	2.5	3.3
190	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0–17	1.1905	4.5	7.5
191	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.6065	12.1	15.5
192	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.8181	6.0	7.0
193	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC.	3.5045	11.6	13.6
194	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC.	1.7226	6.3	7.3
195	07	SURG	CHOLECYSTECTOMY W C.D.E. W CC	3.0850	9.4	10.9
196	07	SURG	CHOLECYSTECTOMY W C.D.E. W/O CC	1.6183	5.3	6.1
197	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC.	2.5761	8.1	9.6
198	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC.	1.2114	4.2	4.7
199	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.4813	8.3	10.8
200	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY.	3.1972	8.5	12.0
201	07	SURG	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	3.8125	12.4	15.6
202	07	MED	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.3280	5.5	7.0
203	07	MED	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.3598	5.7	7.3
204	07	MED	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.2076	4.9	6.2

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TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
205	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC	1.2206	5.2	6.7
206	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	.7345	3.3	4.1
207	07	MED	DISORDERS OF THE BILIARY TRACT W CC	1.1138	4.3	5.5
208	07	MED	DISORDERS OF THE BILIARY TRACT W/O CC	.6397	2.4	3.0
209	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY.	1.9943	4.6	5.1
210	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC.	1.7528	6.1	6.9
211	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC.	1.2261	4.6	5.0
212	08	SURG	*HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0–17	.8428	11.1	11.1
213	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS.	1.9283	7.7	10.0
214	08	SURG	NO LONGER VALID	.0000	.0	.0
215	08	SURG	NO LONGER VALID	.0000	.0	.0
216	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	2.3133	8.5	10.9
217	08	SURG	WND DEBRID & SKN GRFT EXCEPT HAND, FOR MUSCSKELET & CONN TISS DIS.	3.1808	11.0	15.1
218	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W CC.	1.5448	4.7	5.7
219	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W/O CC.	.9972	2.8	3.3
220	08	SURG	*LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE 0–17.	.5814	5.3	5.3
221	08	SURG	NO LONGER VALID	.0000	.0	.0
222	08	SURG	NO LONGER VALID	.0000	.0	.0
223	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC.	.9734	2.1	2.9
224	08	SURG	SHOULDER, ELBOW OR FOREARM PROC, EXC MAJOR JOINT PROC, W/O CC.	.7724	1.6	1.9
225	08	SURG	FOOT PROCEDURES	1.1177	3.8	5.3
226	08	SURG	SOFT TISSUE PROCEDURES W CC	1.5897	5.2	7.3
227	08	SURG	SOFT TISSUE PROCEDURES W/O CC	.7937	2.1	2.8
228	08	SURG	MAJOR THUMB OR JOINT PROC, OR OTH HAND OR WRIST PROC W CC.	1.0885	2.7	4.0
229	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	.7168	1.9	2.5
230	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR.	1.3559	3.9	5.8
231	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR.	1.4317	3.6	5.4
232	08	SURG	ARTHROSCOPY	.9556	1.8	2.9
233	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.0909	6.2	8.4
234	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC ..	1.2075	2.7	3.6
235	08	MED	FRACTURES OF FEMUR	.7548	4.1	5.4
236	08	MED	FRACTURES OF HIP & PELVIS	.6882	3.9	4.9
237	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	.5323	3.0	3.7
238	08	MED	OSTEOMYELITIS	1.4035	7.3	9.3
239	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY.	1.0017	5.4	6.7
240	08	MED	CONNECTIVE TISSUE DISORDERS W CC	1.3701	5.6	7.2
241	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC	.6337	3.3	4.0
242	08	MED	SEPTIC ARTHRITIS	1.0920	5.7	7.2
243	08	MED	MEDICAL BACK PROBLEMS	.7299	4.0	4.9
244	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	.7150	4.1	5.1
245	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	.4655	2.9	3.6
246	08	MED	NON-SPECIFIC ARTHROPATHIES	.5711	3.2	4.0
247	08	MED	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE.	.5594	2.8	3.5
248	08	MED	TENDONITIS, MYOSITIS & BURSITIS	.8148	4.1	5.1
249	08	MED	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	.6767	2.7	3.9
250	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC.	.6809	3.5	4.3
251	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC.	.4555	2.4	2.9

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TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
252	08	MED	*FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0–17	.2525	1.8	1.8
253	08	MED	FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE >17 W CC.	.7398	4.0	5.0
254	08	MED	FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE >17 W/O CC.	.4297	2.8	3.3
255	08	MED	*FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE 0–17	.2941	2.9	2.9
256	08	MED	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES.	.8170	4.2	5.5
257	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W CC	.8801	2.2	2.8
258	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.6970	1.7	1.9
259	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	.8736	1.8	2.7
260	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.6431	1.3	1.4
261	09	SURG	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION.	.9218	1.7	2.3
262	09	SURG	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	.8377	3.0	4.2
263	09	SURG	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W CC	2.1570	9.4	12.7
264	09	SURG	SKIN GRAFT &/OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC.	1.1826	6.0	7.7
265	09	SURG	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC.	1.6900	5.2	7.6
266	09	SURG	SKIN GRAFT &/OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC.	.8435	2.5	3.4
267	09	SURG	PERIANAL & PILONIDAL PROCEDURES	.9421	3.3	4.5
268	09	SURG	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES	1.2255	2.5	3.6
269	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.8049	6.9	9.3
270	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	.8020	2.6	3.8
271	09	MED	SKIN ULCERS	1.1503	6.5	8.3
272	09	MED	MAJOR SKIN DISORDERS W CC	1.0243	5.2	6.7
273	09	MED	MAJOR SKIN DISORDERS W/O CC	.5658	3.4	4.2
274	09	MED	MALIGNANT BREAST DISORDERS W CC	1.1892	5.5	7.2
275	09	MED	MALIGNANT BREAST DISORDERS W/O CC	.6594	3.0	4.6
276	09	MED	NON-MALIGANT BREAST DISORDERS	.6954	4.0	5.0
277	09	MED	CELLULITIS AGE >17 W CC	.8585	5.1	6.1
278	09	MED	CELLULITIS AGE >17 W/O CC	.5638	3.9	4.6
279	09	MED	*CELLULITIS AGE 0–17	.6610	4.2	4.2
280	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	.6940	3.5	4.4
281	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC	.4591	2.5	3.1
282	09	MED	*TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0–17	.2557	2.2	2.2
283	09	MED	MINOR SKIN DISORDERS W CC	.7154	3.8	4.9
284	09	MED	MINOR SKIN DISORDERS W/O CC	.4216	2.5	3.2
285	10	SURG	AMPUTAT OF LOWER LIMB FOR ENDOCRINE, NUTRIT, & METABOL DISORDERS.	2.1315	9.1	11.4
286	10	SURG	ADRENAL & PITUITARY PROCEDURES	2.2277	5.3	6.9
287	10	SURG	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS.	1.9616	8.9	11.7
288	10	SURG	O.R. PROCEDURES FOR OBESITY	2.1682	4.9	6.0
289	10	SURG	PARATHYROID PROCEDURES	.9529	1.9	3.0
290	10	SURG	THYROID PROCEDURES	.8853	1.7	2.3
291	10	SURG	THYROGLOSSAL PROCEDURES	.5910	1.5	1.8
292	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	2.7588	9.1	11.9
293	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.2638	4.5	6.0
294	10	MED	DIABETES AGE >35	.7623	3.8	4.9
295	10	MED	DIABETES AGE 0–35	.7468	3.1	3.9
296	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	.8632	4.3	5.5
297	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC ..	.5070	2.9	3.5
298	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0–17	.3944	2.2	2.9
299	10	MED	INBORN ERRORS OF METABOLISM	.8939	4.3	5.6
300	10	MED	ENDOCRINE DISORDERS W CC	1.1234	5.3	6.6
301	10	MED	ENDOCRINE DISORDERS W/O CC	.6063	3.0	3.8
302	11	SURG	KIDNEY TRANSPLANT	3.2881	7.9	9.3
303	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM.	2.4853	7.5	9.0
304	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC.	2.4558	7.4	9.7
305	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC.	1.1486	3.1	3.8

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TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
306	11	SURG	PROSTATECTOMY W CC	1.3006	4.3	6.2
307	11	SURG	PROSTATECTOMY W/O CC	.6054	1.9	2.3
308	11	SURG	MINOR BLADDER PROCEDURES W CC	1.6788	4.8	6.9
309	11	SURG	MINOR BLADDER PROCEDURES W/O CC	.8935	1.8	2.3
310	11	SURG	TRANSURETHRAL PROCEDURES W CC	1.1342	3.3	4.7
311	11	SURG	TRANSURETHRAL PROCEDURES W/O CC	.5952	1.5	1.8
312	11	SURG	URETHRAL PROCEDURES, AGE >17 W CC	1.0749	3.3	4.8
313	11	SURG	URETHRAL PROCEDURES, AGE >17 W/O CC	.6598	1.8	2.3
314	11	SURG	*URETHRAL PROCEDURES, AGE 0–17	.4927	2.3	2.3
315	11	SURG	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.1396	4.8	8.2
316	11	MED	RENAL FAILURE	1.3732	5.6	7.3
317	11	MED	ADMIT FOR RENAL DIALYSIS	.6157	2.0	2.9
318	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.1710	5.0	6.5
319	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	.5918	2.1	2.8
320	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	.8610	4.6	5.6
321	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	.5592	3.3	3.9
322	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE 0–17	.5234	3.6	4.3
323	11	MED	URINARY STONES W CC, &/OR ESW LITHOTRIPSY	.7969	2.5	3.3
324	11	MED	URINARY STONES W/O CC	.4447	1.6	1.9
325	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC	.6332	3.1	4.0
326	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC	.4118	2.1	2.7
327	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0–17	.3741	2.8	3.2
328	11	MED	URETHRAL STRICTURE AGE >17 W CC	.7216	2.9	3.8
329	11	MED	URETHRAL STRICTURE AGE >17 W/O CC	.4388	1.6	2.0
330	11	MED	*URETHRAL STRICTURE AGE 0–17	.3174	1.6	1.6
331	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	1.0625	4.6	6.0
332	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC	.6057	2.6	3.4
333	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0–17	.8056	4.0	5.4
334	12	SURG	MAJOR MALE PELVIC PROCEDURES W CC	1.4761	4.0	4.5
335	12	SURG	MAJOR MALE PELVIC PROCEDURES W/O CC	1.1081	3.0	3.2
336	12	SURG	TRANSURETHRAL PROSTATECTOMY W CC	.9149	2.9	3.9
337	12	SURG	TRANSURETHRAL PROSTATECTOMY W/O CC	.5769	1.9	2.2
338	12	SURG	TESTES PROCEDURES, FOR MALIGNANCY	1.2150	3.7	5.6
339	12	SURG	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	1.2384	3.5	5.5
340	12	SURG	*TESTES PROCEDURES, NON-MALIGNANCY AGE 0–17	.2820	2.4	2.4
341	12	SURG	PENIS PROCEDURES	1.2740	1.9	3.1
342	12	SURG	CIRCUMCISION AGE >17	.7866	2.6	3.6
343	12	SURG	*CIRCUMCISION AGE 0–17	.1533	1.7	1.7
344	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY.	1.1746	1.6	2.4
345	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY.	1.2518	3.9	5.6
346	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	1.0311	4.9	6.4
347	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	.5701	2.3	3.0
348	12	MED	*BENIGN PROSTATIC HYPERTROPHY W CC	.7105	6.2	6.2
349	12	MED	*BENIGN PROSTATIC HYPERTROPHY W/O CC	.4357	4.9	4.9
350	12	MED	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	.7173	3.8	4.6
351	12	MED	*STERILIZATION, MALE	.2352	1.3	1.3
352	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	.6878	3.0	4.2
353	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY.	1.8386	5.4	6.8
354	13	SURG	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC.	1.5275	5.1	6.1
355	13	SURG	UTERINE,ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC.	.9039	3.1	3.3
356	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES.	.7469	2.0	2.3
357	13	SURG	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY.	2.4424	7.5	9.2
358	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.1910	3.7	4.4
359	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	.8191	2.6	2.8
360	13	SURG	VAGINA, CERVIX & VULVA PROCEDURES	.8530	2.4	2.9
361	13	SURG	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	1.0927	2.2	3.0
362	13	SURG	*ENDOSCOPIC TUBAL INTERRUPTION	.3006	1.4	1.4
363	13	SURG	D&C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	.8149	2.6	3.6
364	13	SURG	D&C, CONIZATION EXCEPT FOR MALIGNANCY	.8190	2.9	4.1

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TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
365	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	2.0115	5.8	8.1
366	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.2739	5.6	7.4
367	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	.5582	2.4	3.2
368	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	1.1384	5.6	7.0
369	13	MED	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS.	.5584	2.5	3.4
370	14	SURG	CESAREAN SECTION W CC	1.0417	4.6	6.1
371	14	SURG	CESAREAN SECTION W/O CC	.6848	3.3	3.7
372	14	MED	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	.5578	2.6	3.3
373	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	.3764	2.0	2.3
374	14	SURG	VAGINAL DELIVERY W STERILIZATION &/OR D&C	.7103	2.6	3.2
375	14	SURG	VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL &/OR D&C	.6081	2.1	2.3
376	14	MED	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE.	.4954	2.5	3.2
377	14	SURG	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE.	1.6465	3.7	5.6
378	14	MED	ECTOPIC PREGNANCY	.7984	2.0	2.4
379	14	MED	THREATENED ABORTION	.4502	2.4	3.5
380	14	MED	ABORTION W/O D&C	.4196	1.6	2.1
381	14	SURG	ABORTION W D&C, ASPIRATION CURETTAGE OR HYSTEROTOMY	.6654	1.8	2.5
382	14	MED	FALSE LABOR	.1607	1.2	1.3
383	14	MED	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS ..	.4856	2.8	3.8
384	14	MED	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS.	.3412	1.6	2.2
385	15	MED	*NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY.	1.3696	1.8	1.8
386	15	MED	*EXTREME IMMATURITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE.	4.5165	17.9	17.9
387	15	MED	*PREMATURITY W MAJOR PROBLEMS	3.0846	13.3	13.3
388	15	MED	*PREMATURITY W/O MAJOR PROBLEMS	1.8612	8.6	8.6
389	15	MED	FULL TERM NEONATE W MAJOR PROBLEMS	2.0857	7.9	13.7
390	15	MED	NEONATE W OTHER SIGNIFICANT PROBLEMS	1.1337	3.5	4.3
391	15	MED	*NORMAL NEWBORN	.1519	3.1	3.1
392	16	SURG	SPLENECTOMY AGE >17	3.3890	8.3	10.8
393	16	SURG	*SPLENECTOMY AGE 0–17	1.3416	9.1	9.1
394	16	SURG	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS.	1.8266	5.1	8.1
395	16	MED	RED BLOOD CELL DISORDERS AGE >17	.8194	3.5	4.7
396	16	MED	RED BLOOD CELL DISORDERS AGE 0–17	1.0480	3.9	5.0
397	16	MED	COAGULATION DISORDERS	1.2664	4.2	5.6
398	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.3049	5.1	6.4
399	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	.6690	3.0	3.7
400	17	SURG	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.9273	7.4	10.5
401	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	2.9814	9.9	12.8
402	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC.	1.1619	3.1	4.4
403	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	1.8486	6.8	9.0
404	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	.8711	3.4	4.6
405	17	MED	*ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0–17	1.9021	4.9	4.9
406	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC.	2.9692	8.4	11.0
407	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC.	1.2484	3.8	4.7
408	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC.	2.2150	6.0	9.2
409	17	MED	RADIOTHERAPY	1.1469	4.9	6.3
410	17	MED	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	.9972	3.3	4.1
411	17	MED	HISTORY OF MALIGNANCY W/O ENDOSCOPY	.4401	1.8	2.3
412	17	MED	HISTORY OF MALIGNANCY W ENDOSCOPY	.6073	1.9	2.4
413	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC ...	1.3898	6.1	7.8
414	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	.7422	3.5	4.5
415	18	SURG	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.8811	12.6	16.2
416	18	MED	SEPTICEMIA AGE >17	1.6209	6.4	8.1
417	18	MED	SEPTICEMIA AGE 0–17	.8498	4.5	5.3
418	18	MED	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	1.0452	5.3	6.6

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DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
419	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	.8617	4.0	5.0
420	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	.6114	3.0	3.6
421	18	MED	VIRAL ILLNESS AGE >17	.6646	3.2	3.9
422	18	MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0–17	.4800	2.6	3.2
423	18	MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.8405	6.7	9.0
424	19	SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.4350	10.7	15.6
425	19	MED	ACUTE ADJUSTMENT REACTION & PSYCHOSOCIAL DYSFUNCTION.	.6799	3.2	4.2
426	19	MED	DEPRESSIVE NEUROSES	.5276	3.5	4.7
427	19	MED	NEUROSES EXCEPT DEPRESSIVE	.5438	3.6	5.0
428	19	MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL	.7200	5.0	7.6
429	19	MED	ORGANIC DISTURBANCES & MENTAL RETARDATION	.8357	5.2	6.8
430	19	MED	PSYCHOSES	.7653	6.7	8.9
431	19	MED	CHILDHOOD MENTAL DISORDERS	.6309	5.0	6.8
432	19	MED	OTHER MENTAL DISORDER DIAGNOSES	.7068	3.4	5.1
433	20	MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	.2852	2.3	3.2
434	20	MED	NO LONGER VALID	.0000	.0	.0
435	20	MED	NO LONGER VALID	.0000	.0	.0
436	20	MED	NO LONGER VALID	.0000	.0	.0
437	20	MED	NO LONGER VALID	.0000	.0	.0
438	20		NO LONGER VALID	.0000	.0	.0
439	21	SURG	SKIN GRAFTS FOR INJURIES	1.9350	6.7	9.5
440	21	SURG	WOUND DEBRIDEMENTS FOR INJURIES	2.0732	7.1	10.3
441	21	SURG	HAND PROCEDURES FOR INJURIES	.9273	2.3	3.3
442	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.5349	6.8	9.6
443	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	.9896	2.7	3.6
444	21	MED	TRAUMATIC INJURY AGE >17 W CC	.7244	3.4	4.4
445	21	MED	TRAUMATIC INJURY AGE >17 W/O CC	.4713	2.4	3.0
446	21	MED	*TRAUMATIC INJURY AGE 0–17	.2949	2.4	2.4
447	21	MED	ALLERGIC REACTIONS AGE >17	.4851	1.9	2.5
448	21	MED	*ALLERGIC REACTIONS AGE 0–17	.0970	2.9	2.9
449	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	.8306	2.8	3.9
450	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	.4161	1.6	2.0
451	21	MED	*POISONING & TOXIC EFFECTS OF DRUGS AGE 0–17	.2618	2.1	2.1
452	21	MED	COMPLICATIONS OF TREATMENT W CC	1.0125	3.8	5.2
453	21	MED	COMPLICATIONS OF TREATMENT W/O CC	.4997	2.2	2.8
454	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	.8713	3.4	4.9
455	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	.4617	1.9	2.6
456	22		NO LONGER VALID	.0000	.0	.0
457	22	MED	NO LONGER VALID	.0000	.0	.0
458	22	SURG	NO LONGER VALID	.0000	.0	.0
459	22	SURG	NO LONGER VALID	.0000	.0	.0
460	22	MED	NO LONGER VALID	.0000	.0	.0
461	23	SURG	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES.	1.1994	2.5	4.6
462	23	MED	REHABILITATION	1.2033	10.4	12.3
463	23	MED	SIGNS & SYMPTOMS W CC	.6818	3.4	4.3
464	23	MED	SIGNS & SYMPTOMS W/O CC	.4630	2.5	3.1
465	23	MED	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.6065	2.5	3.6
466	23	MED	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.6630	2.5	4.2
467	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS	.5762	2.7	4.1
468	.....		EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	3.8458	11.3	14.5
469	.....		**PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	.0000	.0	.0
470	.....		**UNGROUPABLE	.0000	.0	.0
471	08	SURG	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY.	2.9929	5.0	5.7
472	22	SURG	NO LONGER VALID	.0000	.0	.0
473	17	SURG	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	3.9044	9.7	15.0
474	04	SURG	NO LONGER VALID	.0000	.0	.0
475	04	MED	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	3.9155	10.0	12.7
476	.....	SURG	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	2.2902	10.0	12.3

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477	.....	SURG	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	1.9571	6.7	9.3
478	05	SURG	OTHER VASCULAR PROCEDURES W CC	2.4276	5.9	8.2
479	05	SURG	OTHER VASCULAR PROCEDURES W/O CC	1.4024	2.8	3.7
480	PRE	SURG	LIVER TRANSPLANT	10.6132	17.7	22.8
481	PRE	SURG	BONE MARROW TRANSPLANT	7.8889	23.4	25.6
482	PRE	SURG	TRACHEOSTOMY FOR FACE, MOUTH & NECK DIAGNOSES	3.8343	11.4	14.3
483	PRE	SURG	TRACHEOSTOMY EXCEPT FOR FACE, MOUTH & NECK DIAGNOSES.	15.2827	34.0	41.0
484	24	SURG	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	5.1265	11.5	14.5
485	24	SURG	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT TRA.	3.1094	8.5	10.3
486	24	SURG	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	5.2547	11.0	14.3
487	24	MED	OTHER MULTIPLE SIGNIFICANT TRAUMA	1.9199	6.3	8.2
488	25	SURG	HIV W EXTENSIVE O.R. PROCEDURE	5.1474	15.0	19.8
489	25	MED	HIV W MAJOR RELATED CONDITION	1.8802	7.0	9.4
490	25	MED	HIV W OR W/O OTHER RELATED CONDITION	1.0475	4.3	5.8
491	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY.	1.6364	3.0	3.5
492	17	MED	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	4.8853	13.6	19.0
493	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.8468	4.9	6.3
494	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	.9800	1.9	2.5
495	PRE	SURG	LUNG TRANSPLANT	8.8879	13.8	16.2
496	08	SURG	COMBINED ANTERIOR/POSTERIOR SPINAL FUSION	5.6865	8.5	10.3
497	08	SURG	SPINAL FUSION EXCEPT CERVICAL W CC	3.1996	5.8	6.8
498	08	SURG	SPINAL FUSION EXCEPT CERVICAL W/O CC	2.2996	3.9	4.3
499	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC	1.4471	3.8	5.0
500	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC	.9375	2.2	2.6
501	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W CC	2.7466	9.8	12.0
502	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W/O CC	1.5591	5.9	6.9
503	08	SURG	KNEE PROCEDURES W/O PDX OF INFECTION	1.2336	3.3	4.2
504	22	SURG	EXTENSIVE 3RD DEGREE BURNS W SKIN GRAFT	13.8097	28.2	33.6
505	22	MED	EXTENSIVE 3RD DEGREE BURNS W/O SKIN GRAFT	1.4893	2.0	3.4
506	22	SURG	FULL THICKNESS BURN W SKIN GRAFT OR INHAL INJ W CC OR SIG TRAUMA.	4.9149	15.7	19.9
507	22	SURG	FULL THICKNESS BURN W SKIN GRFT OR INHAL INJ W/O CC OR SIG TRAUMA.	1.8331	7.2	9.2
508	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INHAL INJ W CC OR SIG TRAUMA.	1.2966	6.0	8.3
509	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INH INJ W/O CC OR SIG TRAUMA.	.7323	3.7	4.9
510	22	MED	NON-EXTENSIVE BURNS W CC OR SIGNIFICANT TRAUMA	1.3509	5.8	8.0
511	22	MED	NON-EXTENSIVE BURNS W/O CC OR SIGNIFICANT TRAUMA	.7558	3.6	5.1
512	PRE	SURG	SIMULTANEOUS PANCREAS/KIDNEY TRANSPLANT	6.6413	13.4	16.5
513	PRE	SURG	PANCREAS TRANSPLANT	6.6497	10.3	13.4
514	05	SURG	CARDIAC DEFIBRILLATOR IMPLANT W CARDIAC CATH	6.4169	6.8	9.0
515	05	SURG	CARDIAC DEFIBRILLATOR IMPLANT W/O CARDIAC CATH	5.0652	4.3	6.8
516	05	SURG	PERCUTANEOUS CARDIOVASC PROC W AMI	2.7250	4.1	5.0
517	05	SURG	PERC CARDIO PROC W CORONARY ARTERY STENT W/O AMI	2.1497	1.9	2.7
518	05	SURG	PERC CARDIO PROC W/O CORONARY ARTERY STENT OR AMI	1.6673	2.5	3.6
519	08	SURG	CERVICAL SPINAL FUSION W CC	2.2654	3.4	5.1
520	08	SURG	CERVICAL SPINAL FUSION W/O CC	1.5709	2.0	2.8
521	20	MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE W CC	.7354	4.2	5.4
522	20	MED	ALC/DRUG ABUSE OR DEPEND W REHABILITATION THERAPY W/O CC.	.6631	9.0	10.7
523	20	MED	ALC/DRUG ABUSE OR DEPEND W/O REHABILITATION THERAPY W/O CC.	.3983	3.5	4.3

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM 19 STATES FOR LOW VOLUME DRGS.
** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.
NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR TRANSFER CASES.
NOTE: ARITHMETIC MEAN IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 6A.—NEW DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
256.31	Premature menopause	N	13	358, 359, 369
256.39	Other ovarian failure	N	13	358, 359, 369
277.7	Dysmetabolic Syndrome X	N	10	299
464.00	Acute laryngitis, without mention of obstruction	N	3	68, 69, 70
			pre	482
464.01	Acute laryngitis, with obstruction	N	3	68, 69, 70
			pre	482
464.50	Unspecified supraglottis, without mention of obstruction	N	3	68, 69, 70
			pre	482
464.51	Unspecified supraglottis, with obstruction	N	3	68, 69, 70
			pre	482
521.00	Unspecified dental caries	N	3	185, 186, 187
			pre	482
521.01	Dental caries limited to enamel	N	3	185, 186, 187
			pre	482
521.02	Dental caries extending into dentine	N	3	185, 186, 187
			pre	482
521.03	Dental caries extending into pulp	N	3	185, 186, 187
			pre	482
521.04	Arrested dental caries	N	3	185, 186, 187
			pre	482
521.05	Odontoclasia	N	3	185, 186, 187
			pre	482
521.09	Other dental caries	N	3	185, 186, 187
			pre	482
525.10	Unspecified acquired absence of teeth	N	3	185, 186, 187
			pre	482
525.11	Loss of teeth due to trauma	N	3	185, 186, 187
			pre	482
525.12	Loss of teeth due to periodontal disease	N	3	182, 183, 184
			pre	482
525.13	Loss of teeth due to caries	N	3	185, 186, 187
			pre	482
525.19	Other loss of teeth	N	3	185, 186, 187
			pre	482
530.12	Acute esophagitis	N	6	182, 183, 184
564.00	Unspecified constipation	N	6	182, 183, 184
564.01	Slow transit constipation	N	6	182, 183, 184
564.02	Outlet dysfunction constipation	N	6	182, 183, 184
564.09	Other constipation	N	6	182, 183, 184
602.3	Dysplasia of prostate	N	12	352
608.82	Hematospermia	N	12	352
608.87	Retrograde ejaculation	N	12	352
692.76	Sunburn of second degree	N	9	283, 284
692.77	Sunburn of third degree	N	9	283, 284
718.70	Developmental dislocation of joint, site unspecified	N	8	256
718.71	Developmental dislocation of joint, shoulder region	N	8	256
718.72	Developmental dislocation of joint, upper arm	N	8	256
718.73	Developmental dislocation of joint, forearm	N	8	256
718.74	Developmental dislocation of joint, hand	N	8	256
718.75	Developmental dislocation of joint, pelvic region and thigh	N	8	256
718.76	Developmental dislocation of joint, lower leg	N	8	256
718.77	Developmental dislocation of joint, ankle and foot	N	8	256
718.78	Developmental dislocation of joint, other specified sites	N	8	256
718.79	Developmental dislocation of joint, multiple sites	N	8	256
733.93	Stress fracture of tibia or fibula	Y	8	239
733.94	Stress fracture of the metatarsals	Y	8	239
733.95	Stress fracture of other bone	Y	8	239
772.10	Intraventricular hemorrhage, unspecified grade	Y	15	387, 389
772.11	Intraventricular hemorrhage, Grade I	Y	15	387, 389
772.12	Intraventricular hemorrhage, Grade II	Y	15	387, 389
772.13	Intraventricular hemorrhage, Grade III	Y	15	387, 389
772.14	Intraventricular hemorrhage, Grade IV	Y	15	387, 389
779.7	Perventricular leukomalacia	Y	15	387, 389
793.80	Unspecified abnormal mammogram	N	9	276
793.81	Mammographic microcalcification	N	9	276
793.89	Other abnormal findings on radiological examination breast	N	9	276
840.7	Superior glenoid labrum lesions (SLAP)	N	8	253, 254, 255
			24	487

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

Diagnosis code	Description	CC	MDC	DRG
997.71	Vascular complications of mesenteric artery	Y	6	188, 189, 190
			15	387,[1] 389[1]
997.72	Vascular complications of renal artery	Y	11	331, 332, 333
			15	387,[1] 389[1]
997.79	Vascular complications of other vessels	Y	5	130, 131
			15	387,[1] 389[1]
V10.53	Personal history of malignant neoplasm, renal pelvis	N	17	411, 412
V45.84	Dental restoration status	N	23	467
V49.82	Dental sealant status	N	23	467
V83.01	Asymptomatic hemophilia A carrier	N	23	467
V83.02	Symptomatic hemophilia A carrier	N	23	467

TABLE 6B.—NEW PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
37.28	Intracardiac echocardiography	N		
44.32	Percutaneous [endoscopic] gastrojejunostomy	Y	6	154–156
			7	201
			10	288
			17	400, 406, 407
67.51	Transabdominal cerclage of cervix	Y	13	360
			14	372, 373
			21	442, 443
			24	486
67.59	Other repair of internal cervical os	Y	13	360
			14	372, 373
			21	442, 443
			24	486
75.38	Fetal pulse oximetry	N		
81.30	Refusion of spine, not otherwise specified	Y	1	4
			8	497, 498
			21	442, 443
			24	486
81.31	Refusion of Atlas-axis spine	Y	1	4
			8	497, 498
			21	442, 443
			24	486
81.32	Refusion of other cervical spine, anterior technique	Y	1	4
			8	496, 519, 520
			21	442, 443
			24	486
81.33	Refusion of other cervical spine, posterior technique	Y	1	4
			8	496, 519, 520
			21	442, 443
			24	486
81.34	Refusion of dorsal and dorsolumbar spine, anterior technique	Y	1	4
			8	496, 497, 498
			21	442, 443
			24	486
81.35	Refusion of dorsal and dorsolumbar spine, posterior technique	Y	1	4
			8	496, 497, 498
			21	442, 443
			24	486
81.36	Refusion of lumbar and lumbosacral spine, anterior technique	Y	1	4
			8	496, 497, 498
			21	442, 443
			24	486
81.37	Refusion of lumbar and lumbosacral spine, lateral transverse process technique.	Y	1	4
			8	496, 497, 498
			21	442, 443
			24	486
81.38	Refusion of lumbar and lumbosacral spine, posterior technique	Y	1	4
			8	496, 497, 498
			21	442, 443
			24	486

TABLE 6B.—NEW PROCEDURE CODES—Continued

Procedure code	Description	OR	MDC	DRG
81.39	Refusion of spine, not elsewhere classified	Y	1	4
			8	497, 498
			21	442, 443
			24	486
97.44	Nonoperative removal of heart assist system	N		

TABLE 6C.—INVALID DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
256.3	Other ovarian failure	N	13	358, 359, 369
464.0	Acute laryngitis	N	3	68, 69, 70
			pre	482
521.0	Dental caries	N	3	185, 186, 187
			pre	482
525.1	Loss of teeth due to accident, extraction, or local periodontal disease	N	3	185, 186, 187
			pre	482
564.0	Constipation	N	6	182, 183, 184
772.1	Intraventricular hemorrhage	Y	15	387,389
793.8	Nonspecific abnormal findings on radiological and other examinations of body structure, breast.	N	9	276

TABLE 6D.—INVALID PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
67.5	Repair of internal cervical os	Y	13	360
			14	372, 373
			21	442, 442
			24	486
81.09	Refusion of spine, any level or technique	Y	1	4
			8	497, 498
			21	442, 443
			24	486

TABLE 6E.—REVISED DIAGNOSIS CODE TITLES

Diagnosis code	Description	CC	MDC	DRG
411.81	Acute coronary occlusion without myocardial infarction	Y	5	124, 140
493.00	Extrinsic asthma without mention of status asthmaticus or acute exacerbation or unspecified.	N	4	96, 97, 98
493.10	Intrinsic asthma without mention of status asthmaticus or acute exacerbation or unspecified.	N	4	96, 97, 98
493.20	Chronic obstructive asthma without mention of status asthmaticus or acute exacerbation or unspecified.	Y	4	88
493.90	Asthma, unspecified without mention of status asthmaticus or acute exacerbation or unspecified.	N	4	96, 97, 98
V70.7	Examination of participant in clinical trial	N	23	467

TABLE 6F.—REVISED PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
75.34	Other fetal monitoring	N		

TABLE 6G.—ADDITIONS TO THE CC EXCLUSIONS LIST

CCs that are added to the list are in Table 6F-Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*25631	80600	82010	80637	80606	82021	77212	77210
2580	80601	82011	80638	80607	82022	77213	77211
2581	80602	82012	80639	80608	82030	77214	77212
2588	80603	82013	8064	80609	82031	7797	77213
2589	80604	82019	8065	80610	82032	*7729	77214
*25639	80605	82020	80660	80611	8208	77210	7797
2580	80606	82021	80661	80612	8209	77211	*7769
2581	80607	82022	80662	80613	82100	77212	77210
2588	80608	82030	80669	80614	82101	77213	77211
2589	80609	82031	80670	80615	82110	77214	77212
*6023	80610	82032	80671	80616	82111	7797	77213
5960	80611	8208	80672	80617	*7720	*7760	77214
5996	80612	8209	80679	80618	77210	77210	7797
6010	80613	82100	8068	80619	77211	77211	*7797
6012	80614	82101	8069	80620	77212	77212	7722
6013	80615	82110	8080	80621	77213	77213	7797
6021	80616	82111	8082	80622	77214	77214	*7798
78820	80617	*73394	8083	80623	7797	7797	77210
78829	80618	73310	80843	80624	*77210	*7761	77211
*60887	80619	73311	80849	80625	77210	77210	77212
5970	80620	73312	80851	80626	77211	77211	77213
5994	80621	73313	80852	80627	77212	77212	77214
*73310	80622	73314	80853	80628	77213	77213	7797
73393	80623	73315	80859	80629	77214	77214	*9972
73394	80624	73316	8088	80630	7722	7797	99771
73395	80625	73319	8089	80631	7797	*7762	99772
*73311	80626	73393	82000	80632	*77211	77210	99779
73393	80627	73394	82001	80633	77210	77211	*99771
73394	80628	73395	82002	80634	77211	77212	53640
73395	80629	8058	82003	80635	77212	77213	53641
*73312	80630	8059	82009	80636	77213	77214	53642
73393	80631	80600	82010	80637	77214	7797	53649
73394	80632	80601	82011	80638	7722	*7763	56962
73395	80633	80602	82012	80639	7797	77210	9974
*73313	80634	80603	82013	8064	*77212	77211	99771
73393	80635	80604	82019	8065	77210	77212	99772
73394	80636	80605	82020	80660	77211	77213	99779
73395	80637	80606	82021	80661	77212	77214	*99772
*73314	80638	80607	82022	80662	77213	7797	9975
73393	80639	80608	82030	80669	77214	*7764	99771
73394	8064	80609	82031	80670	7722	77210	99772
73395	8065	80610	82032	80671	7797	77211	99779
*73315	80660	80611	8208	80672	*77213	77212	*99779
73393	80661	80612	8209	80679	77210	77213	9972
73394	80662	80613	82100	8068	77211	77214	99771
73395	80669	80614	82101	8069	77212	7797	99772
*73316	80670	80615	82110	8080	77213	*7765	99779
73393	80671	80616	82111	8082	77214	77210	*99791
73394	80672	80617	*73395	8083	7722	77211	99771
73395	80679	80618	73310	80843	7797	77212	99772
*73319	8068	80619	73311	80849	*77214	77213	99779
73393	8069	80620	73312	80851	77210	77214	*99799
73394	8080	80621	73313	80852	77211	7797	99771
73395	8082	80622	73314	80853	77212	*7766	99772
*73393	8083	80623	73315	80859	77213	77210	99779
73310	80843	80624	73316	8088	77214	77211	*99881
73311	80849	80625	73319	8089	7722	77212	99771
73312	80851	80626	73393	82000	7797	77213	99772
73313	80852	80627	73394	82001	*7722	77214	99779
73314	80853	80628	73395	82002	77210	7797	*99883
73315	80859	80629	8058	82003	77211	*7767	99771
73316	8088	80630	8059	82009	77212	77210	99772
73319	8089	80631	80600	82010	77213	77211	99779
73393	82000	80632	80601	82011	77214	77212	*99889
73394	82001	80633	80602	82012	7797	77213	99771
73395	82002	80634	80603	82013	*7728	77214	99772
8058	82003	80635	80604	82019	77210	7797	99779
8059	82009	80636	80605	82020	77211	*7768	*9989
99771							
99772							
99779							

TABLE 6H.—DELETIONS TO THE CC EXCLUSIONS LIST

CCs that are deleted from the list are in Table 6G—Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*2563
2580
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*7769
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*7798
7721

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	33822	8.9935	2	3	6	12	19
2	6772	9.9778	3	5	8	13	20
3	2	43.5000	35	35	52	52	52
4	6035	7.1639	1	2	5	9	15
5	93311	3.1649	1	1	2	3	7
6	366	2.9672	1	1	2	4	6
7	12470	9.9739	2	4	7	12	20
8	4164	3.2759	1	1	2	4	7
9	1610	6.3491	1	3	5	8	13
10	17577	6.5503	2	3	5	8	13
11	3128	4.0767	1	2	3	5	8
12	46758	5.8962	2	3	4	7	11
13	6415	5.2011	2	3	4	6	9
14	319523	5.8762	2	3	5	7	11
15	145366	3.5498	1	2	3	4	7
16	11155	6.0293	2	3	5	7	12
17	3519	3.3231	1	2	3	4	6
18	25961	5.4162	2	3	4	7	10
19	8638	3.6972	1	2	3	5	7
20	5629	10.1482	3	5	8	13	20
21	1309	6.5516	2	3	5	8	13
22	2535	4.8174	1	2	4	6	9
23	9464	4.1855	1	2	3	5	8
24	52753	4.9830	1	2	4	6	10
25	25370	3.2236	1	2	3	4	6
26	31	2.7097	1	1	2	3	6
27	3441	5.0584	1	1	3	6	11
28	11316	6.2100	1	3	5	8	13
29	4486	3.6097	1	2	3	5	7
30	1	1.0000	1	1	1	1	1
31	3488	4.4903	1	2	3	5	8
32	1738	2.5621	1	1	2	3	5
33	1	1.0000	1	1	1	1	1
34	20249	5.0786	1	2	4	6	10
35	5728	3.3959	1	2	3	4	6
36	3190	1.4649	1	1	1	1	2
37	1452	4.0296	1	1	2	5	9
38	102	2.6569	1	1	2	3	5
39	912	1.9079	1	1	1	2	4
40	1545	3.4252	1	1	2	4	7
42	2223	2.2852	1	1	1	3	5
43	85	3.1882	1	2	3	4	6
44	1238	4.9548	2	3	4	6	9
45	2444	3.1678	1	2	3	4	6
46	3051	4.6834	1	2	4	6	9
47	1281	3.2560	1	1	3	4	6
49	2241	4.8104	1	2	3	6	9
50	2488	1.9425	1	1	1	2	3
51	203	2.6995	1	1	1	2	6
52	220	1.9318	1	1	1	2	3
53	2478	3.5557	1	1	2	4	8
54	2	1.5000	1	1	2	2	2
55	1505	2.7442	1	1	1	3	6
56	503	2.7256	1	1	2	3	5
57	708	3.9492	1	1	2	5	9
59	107	2.7850	1	1	2	3	5
60	2	3.5000	2	2	5	5	5
61	231	5.0996	1	1	2	6	12
62	3	1.3333	1	1	1	2	2
63	2934	4.3889	1	2	3	5	8
64	3033	6.1800	1	2	4	8	13
65	34466	2.8420	1	1	2	4	5
66	6978	3.1635	1	1	2	4	6
67	495	3.5960	1	2	3	4	7
68	16724	4.1158	1	2	3	5	7
69	5435	3.2736	1	2	3	4	6
70	24	2.9167	1	2	2	4	5
71	82	3.8049	1	2	3	4	7
72	883	3.5663	1	2	3	4	6
73	6630	4.4065	1	2	3	6	9

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
75	39010	9.9124	3	5	7	12	19
76	38998	11.2677	3	5	9	14	21
77	2352	4.9184	1	2	4	7	10
78	32087	6.7848	3	4	6	8	11
79	169783	8.4892	3	4	7	11	16
80	9018	5.6618	2	3	5	7	10
81	4	18.2500	3	3	4	8	58
82	61883	6.9447	2	3	5	9	14
83	6446	5.5496	2	3	4	7	10
84	1508	3.3455	1	2	3	4	6
85	20572	6.3122	2	3	5	8	12
86	2118	3.6643	1	2	3	5	7
87	60110	6.2840	1	3	5	8	12
88	389694	5.1207	2	3	4	6	9
89	525838	5.9470	2	3	5	7	11
90	53895	4.1549	2	3	4	5	7
91	54	4.5185	2	2	3	5	10
92	13774	6.3499	2	3	5	8	12
93	1672	4.0353	1	2	3	5	7
94	12030	6.2988	2	3	5	8	12
95	1595	3.7179	1	2	3	5	7
96	61986	4.6292	2	3	4	6	8
97	31444	3.6560	1	2	3	5	7
98	18	4.2222	1	2	2	4	6
99	18996	3.1991	1	1	2	4	6
100	7619	2.1869	1	1	2	3	4
101	19997	4.3938	1	2	3	5	9
102	5146	2.6570	1	1	2	3	5
103	475	46.6021	9	13	25	60	98
104	36578	11.3165	7	11	28	60	98
105	29726	9.2831	5	6	8	15	98
106	3401	11.4963	5	7	10	14	20
107	87868	10.3783	5	7	9	12	17
108	6048	10.2116	3	5	8	13	19
109	60265	7.6926	4	5	6	9	12
110	52595	9.2013	2	5	7	11	18
111	8545	4.7604	1	2	5	6	8
113	42250	12.1885	3	6	9	15	24
114	8712	8.3768	2	4	7	10	16
115	14329	8.1687	1	4	7	11	16
116	330888	3.6061	2	9	7	11	16
117	3717	4.1512	1	1	2	5	9
118	7667	2.6849	1	1	1	3	6
119	1307	4.8829	1	1	3	6	12
120	35929	8.1178	1	2	5	10	16
121	162112	6.3821	2	3	5	8	12
122	78969	3.7027	1	2	3	5	7
123	40659	4.5833	1	1	3	6	11
124	132801	4.3427	1	2	3	5	8
125	80169	2.7657	1	1	2	4	5
126	5150	11.6882	3	6	9	14	22
127	678903	5.2745	2	3	4	7	10
128	9424	5.6175	2	4	5	7	9
129	4140	2.7621	1	1	1	3	6
130	86009	5.6760	2	3	5	7	10
131	28236	4.2426	1	2	4	6	7
132	147648	3.0002	1	1	2	4	6
133	8321	2.3367	1	1	2	3	4
134	36118	3.2406	1	2	3	4	6
135	7266	4.5531	1	2	3	6	9
136	1221	2.7158	1	1	2	3	5
138	194087	3.9932	1	2	3	5	8
139	82604	2.5072	1	1	2	3	5
140	69724	2.6533	1	1	2	3	5
141	90403	3.6691	1	2	3	5	7
142	45776	2.6508	1	1	2	3	5
143	203918	2.1253	1	1	2	3	4
144	81577	5.3196	1	2	4	7	11
145	7224	2.7460	1	1	2	3	5
146	10683	10.2826	5	7	9	12	17

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
147	2629	6.4196	3	5	6	8	9
148	129247	12.1904	5	7	10	15	22
149	18462	6.5184	4	5	6	8	9
150	19795	11.2770	4	7	10	14	20
151	4814	5.8286	2	3	5	8	10
152	4381	8.1438	3	5	7	9	14
153	2083	5.3711	3	4	5	7	8
154	28660	13.1491	4	7	10	16	25
155	6596	4.2179	1	2	3	6	8
156	4	7.5000	1	1	5	6	18
157	7903	5.3790	1	2	4	7	11
158	4630	2.5395	1	1	2	3	5
159	16309	4.9926	1	2	4	6	10
160	11655	2.6619	1	1	2	3	5
161	11119	4.2027	1	1	3	5	9
162	7199	1.9267	1	1	1	2	4
163	5	4.4000	1	1	3	4	13
164	4824	8.4279	4	5	7	10	15
165	2066	4.8049	2	3	5	6	8
166	3532	5.0337	2	2	4	6	10
167	3269	2.5990	1	2	2	3	5
168	1327	4.7641	1	2	3	6	10
169	834	2.3405	1	1	2	3	5
170	10975	11.1690	2	5	8	14	22
171	1284	4.6597	1	2	4	6	9
172	30412	6.9363	2	3	5	9	14
173	2685	3.6648	1	1	3	5	7
174	240400	4.7974	2	3	4	6	9
175	32375	2.9414	1	2	3	4	5
176	15101	5.2286	2	3	4	6	10
177	9190	4.5348	2	2	4	6	8
178	3597	3.0703	1	2	3	4	6
179	12291	5.9729	2	3	5	7	11
180	85599	5.3567	2	3	4	7	10
181	26315	3.4185	1	2	3	4	6
182	243506	4.3356	1	2	3	5	8
183	83969	2.9155	1	1	2	4	5
184	79	2.9620	1	2	2	4	6
185	4760	4.5210	1	2	3	6	9
186	3	9.3333	1	1	9	18	18
187	646	3.9164	1	1	3	5	8
188	75558	5.5580	1	2	4	7	11
189	11984	3.1542	1	1	2	4	6
190	49	7.0204	2	3	4	5	8
191	8889	13.7967	4	6	10	17	28
192	1105	6.5122	2	4	6	8	11
193	5258	12.5369	5	7	10	16	22
194	718	6.7869	2	4	6	8	12
195	4327	10.1470	4	6	9	12	17
196	1162	5.7212	2	4	5	7	10
197	18754	8.9335	3	5	7	11	16
198	5751	4.5416	2	3	4	6	8
199	1704	9.5827	2	4	7	13	20
200	1063	10.3518	1	3	7	13	22
201	1398	13.7790	3	6	11	17	25
202	25975	6.4045	2	3	5	8	13
203	29017	6.6364	2	3	5	9	13
204	57319	5.7964	2	3	4	7	11
205	22900	6.1735	2	3	5	8	12
206	1948	3.9168	1	2	3	5	7
207	30817	5.0832	1	2	4	6	10
208	10061	2.8946	1	1	2	4	6
209	343375	5.0786	3	3	4	6	8
210	120891	6.8189	3	4	6	8	11
211	31665	4.9325	3	4	4	6	7
212	6	13.5000	1	4	4	29	29
213	9144	8.9604	2	4	7	11	18
216	5956	9.6949	2	4	8	12	20
217	16333	13.1971	3	5	9	16	28
218	21296	5.4123	2	3	4	7	10

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
219	19530	3.2240	1	2	3	4	6
220	6	4.0000	1	1	3	7	7
223	13251	2.8497	1	1	2	3	6
224	11112	1.9343	1	1	2	2	3
225	5734	4.8575	1	2	3	6	11
226	5148	6.5874	1	2	4	8	14
227	4695	2.7242	1	1	2	3	5
228	2340	3.7970	1	1	2	5	8
229	1108	2.4838	1	1	2	3	5
230	2365	5.2592	1	2	3	6	11
231	11343	4.9395	1	2	3	6	11
232	807	2.8872	1	1	1	3	7
233	5059	7.5181	2	3	6	10	15
234	3168	3.4419	1	1	3	4	7
235	5036	5.0473	1	2	4	6	9
236	38265	4.8164	1	3	4	6	9
237	1687	3.5033	1	2	3	4	6
238	7930	8.5212	3	4	6	10	16
239	49088	6.2151	2	3	5	8	12
240	11318	6.6744	2	3	5	8	13
241	3168	3.8570	1	2	3	5	7
242	2434	6.6348	2	3	5	8	13
243	87407	4.6676	1	2	4	6	9
244	12162	4.8047	1	2	4	6	9
245	5130	3.4458	1	2	3	4	6
246	1386	3.8117	1	2	3	5	7
247	16832	3.3990	1	1	3	4	7
248	10529	4.8161	1	2	4	6	9
249	11336	3.6591	1	1	2	4	8
250	3456	4.1062	1	2	3	5	7
251	2406	2.8579	1	1	2	4	5
253	19677	4.7732	1	3	4	6	9
254	10449	3.1906	1	2	3	4	6
255	1	3.0000	3	3	3	3	3
256	6054	5.0766	1	2	4	6	10
257	16333	2.7359	1	1	2	3	5
258	15978	1.9342	1	1	2	2	3
259	3773	2.6801	1	1	1	2	6
260	4896	1.4167	1	1	1	2	2
261	1844	2.2749	1	1	1	3	5
262	612	3.9477	1	1	3	5	8
263	18146	12.0208	3	5	8	14	24
264	3608	7.4088	2	4	6	9	14
265	3681	6.8036	1	2	4	8	14
266	2698	3.3039	1	1	2	4	7
267	233	4.2060	1	1	3	6	9
268	878	3.4989	1	1	2	4	7
269	7390	8.2441	1	3	6	10	17
270	2623	3.5783	1	1	2	5	8
271	9621	7.6144	2	4	6	9	14
272	5459	6.1597	2	3	5	8	12
273	1286	4.0420	1	2	3	5	8
274	2334	6.5900	1	3	5	8	13
275	246	4.3130	1	1	3	5	9
276	1177	4.6669	1	2	4	6	8
277	85183	5.7309	2	3	5	7	10
278	33396	4.4205	2	3	4	6	8
279	3	2.3333	1	1	2	4	4
280	15577	4.1954	1	2	3	5	8
281	7128	3.0464	1	1	3	4	6
282	3	1.6667	1	1	2	2	2
283	5629	4.5756	1	2	4	6	9
284	1868	3.1124	1	1	2	4	6
285	6195	10.3080	3	5	8	13	20
286	2070	6.4396	2	3	5	7	13
287	5676	10.5374	3	5	7	12	21
288	2639	5.7704	2	3	4	6	9
289	4765	3.0002	1	1	2	3	7
290	8753	2.3103	1	1	2	2	4
291	65	1.8462	1	1	1	2	3

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
292	4702	10.4872	2	4	8	14	22
293	624	5.5096	1	2	4	7	12
294	87857	4.6066	1	2	4	6	9
295	3277	3.7376	1	2	3	5	7
296	235003	5.1556	2	2	4	6	10
297	43573	3.4124	1	2	3	4	6
298	86	2.8256	1	1	2	3	5
299	1178	5.2199	1	2	4	7	10
300	15999	6.1363	2	3	5	8	12
301	3208	3.6234	1	2	3	4	7
302	8018	9.0636	4	5	7	11	19
303	19452	8.4231	4	5	7	10	15
304	11767	8.7339	2	4	6	11	18
305	2984	3.6384	1	2	3	5	7
306	7320	5.6291	1	2	3	8	13
307	2082	2.2517	1	1	2	3	4
308	7463	6.1733	1	2	4	8	14
309	4096	2.2954	1	1	2	3	4
310	23873	4.4002	1	1	3	6	10
311	7963	1.8339	1	1	1	2	3
312	1487	4.4654	1	1	3	6	10
313	591	2.3316	1	1	1	3	5
315	29749	6.9546	1	1	4	9	15
316	104601	6.6228	2	3	5	8	13
317	1507	2.8779	1	1	2	3	6
318	5584	5.9979	1	3	5	8	12
319	422	2.7725	1	1	2	3	6
320	186678	5.3171	2	3	4	6	10
321	30428	3.7951	1	2	3	5	7
322	61	4.1475	2	2	3	5	8
323	17241	3.2172	1	1	2	4	7
324	7479	1.8826	1	1	1	2	3
325	8160	3.8241	1	2	3	5	7
326	2676	2.6648	1	1	2	3	5
327	11	3.0909	1	1	3	4	5
328	663	3.6305	1	1	3	5	8
329	77	2.0130	1	1	1	2	4
331	46045	5.5426	1	3	4	7	11
332	4930	3.2917	1	1	2	4	7
333	281	5.0569	1	2	4	6	10
334	8654	4.4386	2	3	4	5	7
335	10721	3.1791	2	2	3	4	5
336	9563	3.7848	1	2	3	4	8
337	3041	2.1500	1	1	2	3	3
338	1226	5.1117	1	2	3	7	11
339	1344	4.9821	1	1	3	7	12
340	1	1.0000	1	1	1	1	1
341	2738	3.1088	1	1	1	3	6
342	298	3.4094	1	1	2	4	7
344	3502	2.3829	1	1	1	2	5
345	410	5.1244	1	2	3	6	10
346	4441	5.8726	1	3	4	7	12
347	365	2.9479	1	1	2	4	6
350	6270	4.3933	1	2	4	5	8
352	756	3.9577	1	2	3	5	8
353	2533	6.4212	2	3	5	7	12
354	7562	5.8375	3	3	4	7	11
355	5504	3.2862	2	3	3	4	5
356	25128	2.2924	1	1	2	3	4
357	5548	8.4874	3	4	7	10	16
358	20294	4.3121	2	3	3	5	7
359	29890	2.7295	2	2	3	3	4
360	15941	2.8557	1	2	2	3	5
361	378	2.9233	1	1	2	3	5
363	2862	3.4693	1	2	2	3	7
364	1644	3.8534	1	1	3	5	8
365	1722	7.2410	1	3	5	9	16
366	4410	6.7329	1	3	5	8	14
367	583	3.0617	1	1	2	4	6
368	3110	6.4810	2	3	5	8	12

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
369	3133	3.2515	1	1	2	4	7
370	1095	5.8429	3	3	4	5	10
371	1307	3.6526	2	3	3	4	5
372	927	3.2891	1	2	2	3	5
373	3734	2.2499	1	2	2	3	3
374	120	3.1583	1	2	2	3	4
375	10	2.3000	1	2	2	3	4
376	247	3.0931	1	2	2	4	6
377	48	5.0000	1	1	3	6	12
378	157	2.4140	1	1	2	3	4
379	337	3.4303	1	1	2	4	6
380	58	2.1207	1	1	1	2	5
381	152	2.5132	1	1	1	3	5
382	45	1.2889	1	1	1	1	2
383	1707	3.5817	1	1	2	4	7
384	114	2.1842	1	1	1	3	5
385	1	1.0000	1	1	1	1	1
389	15	11.7333	1	3	6	10	24
390	14	4.0000	1	2	3	6	7
391	1	4.0000	4	4	4	4	4
392	2323	9.6750	3	4	7	12	20
394	1870	7.1428	1	2	4	8	16
395	86911	4.4001	1	2	3	6	9
396	15	4.6667	1	2	4	6	7
397	17554	5.1878	1	2	4	7	10
398	17526	5.9417	2	3	5	7	11
399	1721	3.5758	1	2	3	5	7
400	6444	9.1189	1	3	6	12	20
401	5581	11.2575	2	5	9	15	23
402	1498	4.1128	1	1	3	6	9
403	31732	8.0627	2	3	6	10	17
404	4639	4.2720	1	2	3	6	9
406	2513	9.8607	3	4	7	12	20
407	720	4.4417	1	2	4	5	8
408	2178	8.0317	1	2	5	10	18
409	2822	5.9072	2	3	4	6	12
410	33412	3.9069	1	2	4	5	6
411	13	2.3077	1	1	2	2	5
412	29	2.4483	1	1	2	3	4
413	6419	7.0662	2	3	5	9	14
414	767	4.2529	1	2	3	5	9
415	38683	14.2779	4	6	11	18	28
416	183557	7.3848	2	4	6	9	14
417	16	5.0000	2	2	4	6	9
418	22822	6.1160	2	3	5	7	11
419	15294	4.7204	2	2	4	6	9
420	3109	3.5002	1	2	3	4	6
421	11464	3.7872	1	2	3	5	7
422	80	3.0625	1	2	3	4	6
423	7452	8.1162	2	3	6	10	16
424	1275	13.4204	2	5	9	16	26
425	15710	3.9945	1	2	3	5	8
426	4443	4.4510	1	2	3	5	9
427	1633	4.6418	1	2	3	6	9
428	835	6.8192	1	2	4	8	14
429	25967	6.3055	2	3	5	7	12
430	58669	8.0151	2	3	6	10	16
431	313	6.2045	1	3	5	7	11
432	469	4.7271	1	2	3	5	9
433	5418	3.0945	1	1	2	4	6
439	1343	8.4080	1	3	5	10	19
440	5131	9.0209	2	3	6	11	20
441	601	3.2313	1	1	2	4	7
442	15366	8.4839	1	3	6	10	18
443	3730	3.4399	1	1	3	4	7
444	5185	4.1338	1	2	3	5	8
445	2427	2.9250	1	1	2	4	5
447	5451	2.4748	1	1	2	3	5
449	28048	3.7457	1	1	3	5	8
450	6867	2.0051	1	1	1	2	4

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
451	3	1.3333	1	1	1	2	2
452	22666	4.8553	1	2	3	6	10
453	5068	2.8035	1	1	2	3	6
454	3940	4.5652	1	2	3	5	9
455	931	2.5994	1	1	2	3	5
461	3490	4.3739	1	1	2	5	11
462	12994	11.2271	4	6	9	14	21
463	21790	4.1239	1	2	3	5	8
464	6533	2.9963	1	1	2	4	6
465	154	3.4481	1	1	2	4	7
466	1470	3.9925	1	1	2	5	9
467	534	3.8390	1	1	2	4	8
468	58990	12.9159	3	6	10	17	30
471	11639	5.5322	3	4	4	6	9
473	7599	12.5038	1	3	7	18	32
475	107089	11.1800	2	5	9	15	22
476	4126	10.8924	2	5	9	14	21
477	24823	8.1004	1	3	6	11	17
478	106999	7.3166	1	3	5	9	15
479	24939	3.5376	1	1	3	5	7
480	541	20.4843	7	9	13	25	43
481	377	23.9310	10	18	22	27	38
482	5686	12.9474	4	7	10	15	25
483	42093	39.0315	14	22	33	49	70
484	313	12.6773	2	6	10	17	26
485	2880	9.5955	4	5	7	11	18
486	1856	12.4402	1	5	10	16	25
487	3339	7.3612	1	3	6	10	15
488	770	17.0078	3	7	13	22	36
489	14005	8.4383	2	3	6	10	17
490	5378	5.3405	1	2	4	6	10
491	12205	3.4483	2	2	3	4	6
492	2672	15.6662	3	5	8	25	34
493	54859	5.7621	1	3	5	7	11
494	29900	2.4482	1	1	2	3	5
495	153	15.0261	7	9	12	18	26
496	1444	9.5824	4	5	7	12	18
497	23721	6.1748	3	4	7	12	18
498	22152	3.3273	3	4	6	12	18
499	30284	4.6986	1	2	3	6	9
500	43962	2.6146	1	1	2	3	5
501	2180	10.9670	4	6	8	13	21
502	586	6.5648	3	4	5	8	11
503	5551	3.9996	1	2	3	5	7
504	114	29.5877	9	14	24	41	54
505	145	3.3517	1	1	1	3	7
506	915	17.4000	4	8	14	22	35
507	290	8.2621	2	4	7	11	18
508	657	7.4718	2	3	5	9	15
509	176	4.5455	1	2	4	6	9
510	1619	7.1779	2	3	5	9	15
511	602	4.7591	1	2	3	6	10
512	.....	.....	1	2	3	6	10
513	.....	.....	1	2	3	6	10
514	.....	.....	1	2	3	6	10
515	.....	.....	1	2	3	6	10
516	.....	.....	1	2	3	6	10
517	.....	.....	1	2	3	6	10
518	.....	.....	1	2	3	6	10
519	.....	.....	1	2	3	6	10
520	.....	.....	1	2	3	6	10
521	.....	.....	1	2	3	6	10
522	.....	.....	1	2	3	6	10
523	.....	.....	1	2	3	6	10
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TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	33822	8.9935	2	3	6	12	19
2	6772	9.9778	3	5	8	13	20
3	2	43.5000	35	35	52	52	52
4	6035	7.1639	1	2	5	9	15
5	93311	3.1649	1	1	2	3	7
6	366	2.9672	1	1	2	4	6
7	12470	9.9739	2	4	7	12	20
8	4164	3.2759	1	1	2	4	7
9	1610	6.3491	1	3	5	8	13
10	17577	6.5503	2	3	5	8	13
11	3128	4.0767	1	2	3	5	8
12	46758	5.8962	2	3	4	7	11
13	6415	5.2011	2	3	4	6	9
14	319523	5.8762	2	3	5	7	11
15	145366	3.5498	1	2	3	4	7
16	11155	6.0293	2	3	5	7	12
17	3519	3.3231	1	2	3	4	6
18	25961	5.4162	2	3	4	7	10
19	8638	3.6972	1	2	3	5	7
20	5629	10.1482	3	5	8	13	20
21	1309	6.5516	2	3	5	8	13
22	2535	4.8174	1	2	4	6	9
23	9464	4.1855	1	2	3	5	8
24	52753	4.9830	1	2	4	6	10
25	25370	3.2236	1	2	3	4	6
26	31	2.7097	1	1	2	3	6
27	3441	5.0584	1	1	3	6	11
28	11316	6.2100	1	3	5	8	13
29	4486	3.6097	1	2	3	5	7
30	1	1.0000	1	1	1	1	1
31	3488	4.4903	1	2	3	5	8
32	1738	2.5621	1	1	2	3	5
33	1	1.0000	1	1	1	1	1
34	20249	5.0786	1	2	4	6	10
35	5728	3.3959	1	2	3	4	6
36	3190	1.4649	1	1	1	1	2
37	1452	4.0296	1	1	2	5	9
38	102	2.6569	1	1	2	3	5
39	912	1.9079	1	1	1	2	4
40	1545	3.4252	1	1	2	4	7
42	2223	2.2852	1	1	1	3	5
43	85	3.1882	1	2	3	4	6
44	1238	4.9548	2	3	4	6	9
45	2444	3.1678	1	2	3	4	6
46	3051	4.6834	1	2	4	6	9
47	1281	3.2560	1	1	3	4	6
49	2241	4.8104	1	2	3	6	9
50	2488	1.9425	1	1	1	2	3
51	203	2.6995	1	1	1	2	6
52	220	1.9318	1	1	1	2	3
53	2478	3.5557	1	1	2	4	8
54	2	1.5000	1	1	2	2	2
55	1505	2.7442	1	1	1	3	6
56	503	2.7256	1	1	2	3	5
57	708	3.9492	1	1	2	5	9
59	107	2.7850	1	1	2	3	5
60	2	3.5000	2	2	5	5	5
61	231	5.0996	1	1	2	6	12
62	3	1.3333	1	1	1	2	2
63	3003	4.4409	1	2	3	5	9
64	3033	6.1800	1	2	4	8	13
65	34466	2.8420	1	1	2	4	5
66	6978	3.1635	1	1	2	4	6
67	495	3.5960	1	2	3	4	7
68	16724	4.1158	1	2	3	5	7
69	5435	3.2736	1	2	3	4	6
70	24	2.9167	1	2	2	4	5
71	82	3.8049	1	2	3	4	7
72	883	3.5663	1	2	3	4	6
73	6630	4.4065	1	2	3	6	9

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
75	39010	9.9124	3	5	7	12	19
76	38998	11.2677	3	5	9	14	21
77	2352	4.9184	1	2	4	7	10
78	32087	6.7848	3	4	6	8	11
79	169783	8.4892	3	4	7	11	16
80	9018	5.6618	2	3	5	7	10
81	4	18.2500	3	3	4	8	58
82	61883	6.9447	2	3	5	9	14
83	6446	5.5496	2	3	4	7	10
84	1508	3.3455	1	2	3	4	6
85	20572	6.3122	2	3	5	8	12
86	2118	3.6643	1	2	3	5	7
87	60110	6.2840	1	3	5	8	12
88	389694	5.1207	2	3	4	6	9
89	525838	5.9470	2	3	5	7	11
90	53895	4.1549	2	3	4	5	7
91	54	4.5185	2	2	3	5	10
92	13774	6.3499	2	3	5	8	12
93	1672	4.0353	1	2	3	5	7
94	12030	6.2988	2	3	5	8	12
95	1595	3.7179	1	2	3	5	7
96	61986	4.6292	2	3	4	6	8
97	31444	3.6560	1	2	3	5	7
98	18	4.2222	1	2	2	4	6
99	18996	3.1991	1	1	2	4	6
100	7619	2.1869	1	1	2	3	4
101	19997	4.3938	1	2	3	5	9
102	5146	2.6570	1	1	2	3	5
103	475	46.6021	9	13	25	60	98
104	19650	14.1922	6	8	12	17	25
105	25952	9.7562	4	6	8	11	17
106	3401	11.4963	5	7	10	14	20
107	87868	10.3783	5	7	9	12	17
108	6047	10.2128	3	5	8	13	19
109	60265	7.6926	4	5	6	9	12
110	52587	9.2019	2	5	7	11	18
111	8545	4.7604	1	2	5	6	8
113	42250	12.1885	3	6	9	15	24
114	8712	8.3768	2	4	7	10	16
115	14329	8.1687	1	4	7	11	16
116	91838	4.4683	1	2	3	6	9
117	3717	4.1512	1	1	2	5	9
118	7667	2.6849	1	1	1	3	6
119	1307	4.8829	1	1	3	6	12
120	37500	8.5321	1	2	6	11	19
121	162112	6.3821	2	3	5	8	12
122	78969	3.7027	1	2	3	5	7
123	40659	4.5833	1	1	3	6	11
124	132801	4.3427	1	2	3	5	8
125	80169	2.7657	1	1	2	4	5
126	5150	11.6882	3	6	9	14	22
127	678903	5.2745	2	3	4	7	10
128	9424	5.6175	2	4	5	7	9
129	4140	2.7621	1	1	1	3	6
130	86009	5.6760	2	3	5	7	10
131	28236	4.2426	1	2	4	6	7
132	147648	3.0002	1	1	2	4	6
133	8321	2.3367	1	1	2	3	4
134	36118	3.2406	1	2	3	4	6
135	7266	4.5531	1	2	3	6	9
136	1221	2.7158	1	1	2	3	5
138	194087	3.9932	1	2	3	5	8
139	82604	2.5072	1	1	2	3	5
140	69724	2.6533	1	1	2	3	5
141	90403	3.6691	1	2	3	5	7
142	45776	2.6508	1	1	2	3	5
143	203918	2.1253	1	1	2	3	4
144	81577	5.3196	1	2	4	7	11
145	7224	2.7460	1	1	2	3	5
146	10683	10.2826	5	7	9	12	17

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
147	2629	6.4196	3	5	6	8	9
148	129247	12.1904	5	7	10	15	22
149	18462	6.5184	4	5	6	8	9
150	19795	11.2770	4	7	10	14	20
151	4814	5.8286	2	3	5	8	10
152	4381	8.1438	3	5	7	9	14
153	2083	5.3711	3	4	5	7	8
154	28660	13.1491	4	7	10	16	25
155	6596	4.2179	1	2	3	6	8
156	4	7.5000	1	1	5	6	18
157	7903	5.3790	1	2	4	7	11
158	4630	2.5395	1	1	2	3	5
159	16309	4.9926	1	2	4	6	10
160	11655	2.6619	1	1	2	3	5
161	11119	4.2027	1	1	3	5	9
162	7199	1.9267	1	1	1	2	4
163	5	4.4000	1	1	3	4	13
164	4824	8.4279	4	5	7	10	15
165	2066	4.8049	2	3	5	6	8
166	3532	5.0337	2	2	4	6	10
167	3269	2.5990	1	2	2	3	5
168	1327	4.7641	1	2	3	6	10
169	834	2.3405	1	1	2	3	5
170	10975	11.1690	2	5	8	14	22
171	1284	4.6597	1	2	4	6	9
172	30412	6.9363	2	3	5	9	14
173	2685	3.6648	1	1	3	5	7
174	240400	4.7974	2	3	4	6	9
175	32375	2.9414	1	2	3	4	5
176	15101	5.2286	2	3	4	6	10
177	9190	4.5348	2	2	4	6	8
178	3597	3.0703	1	2	3	4	6
179	12291	5.9729	2	3	5	7	11
180	85599	5.3567	2	3	4	7	10
181	26315	3.4185	1	2	3	4	6
182	243506	4.3356	1	2	3	5	8
183	83969	2.9155	1	1	2	4	5
184	79	2.9620	1	2	2	4	6
185	4760	4.5210	1	2	3	6	9
186	3	9.3333	1	1	9	18	18
187	646	3.9164	1	1	3	5	8
188	75558	5.5580	1	2	4	7	11
189	11984	3.1542	1	1	2	4	6
190	49	7.0204	2	3	4	5	8
191	8867	13.7982	4	6	10	17	27
192	1105	6.5122	2	4	6	8	11
193	5258	12.5369	5	7	10	16	22
194	718	6.7869	2	4	6	8	12
195	4327	10.1470	4	6	9	12	17
196	1162	5.7212	2	4	5	7	10
197	18754	8.9335	3	5	7	11	16
198	5751	4.5416	2	3	4	6	8
199	1704	9.5827	2	4	7	13	20
200	1063	10.3518	1	3	7	13	22
201	1430	13.8098	3	6	11	18	27
202	25975	6.4045	2	3	5	8	13
203	29017	6.6364	2	3	5	9	13
204	57319	5.7964	2	3	4	7	11
205	22900	6.1735	2	3	5	8	12
206	1948	3.9168	1	2	3	5	7
207	30817	5.0832	1	2	4	6	10
208	10061	2.8946	1	1	2	4	6
209	343375	5.0786	3	3	4	6	8
210	120891	6.8189	3	4	6	8	11
211	31665	4.9325	3	4	4	6	7
212	6	13.5000	1	4	4	29	29
213	9144	8.9604	2	4	7	11	18
216	5956	9.6949	2	4	8	12	20
217	16333	13.1971	3	5	9	16	28
218	21296	5.4123	2	3	4	7	10

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
219	19530	3.2240	1	2	3	4	6
220	6	4.0000	1	1	3	7	7
223	13251	2.8497	1	1	2	3	6
224	11112	1.9343	1	1	2	2	3
225	5734	4.8575	1	2	3	6	11
226	5148	6.5874	1	2	4	8	14
227	4695	2.7242	1	1	2	3	5
228	2340	3.7970	1	1	2	5	8
229	1108	2.4838	1	1	2	3	5
230	2365	5.2592	1	2	3	6	11
231	11343	4.9395	1	2	3	6	11
232	807	2.8872	1	1	1	3	7
233	5059	7.5181	2	3	6	10	15
234	3168	3.4419	1	1	3	4	7
235	5036	5.0473	1	2	4	6	9
236	38265	4.8164	1	3	4	6	9
237	1687	3.5033	1	2	3	4	6
238	7930	8.5212	3	4	6	10	16
239	49088	6.2151	2	3	5	8	12
240	11318	6.6744	2	3	5	8	13
241	3168	3.8570	1	2	3	5	7
242	2434	6.6348	2	3	5	8	13
243	87407	4.6676	1	2	4	6	9
244	12162	4.8047	1	2	4	6	9
245	5130	3.4458	1	2	3	4	6
246	1386	3.8117	1	2	3	5	7
247	16832	3.3990	1	1	3	4	7
248	10529	4.8161	1	2	4	6	9
249	11336	3.6591	1	1	2	4	8
250	3456	4.1062	1	2	3	5	7
251	2406	2.8579	1	1	2	4	5
253	19677	4.7732	1	3	4	6	9
254	10449	3.1906	1	2	3	4	6
255	1	3.0000	3	3	3	3	3
256	6054	5.0766	1	2	4	6	10
257	16333	2.7359	1	1	2	3	5
258	15978	1.9342	1	1	2	2	3
259	3773	2.6801	1	1	1	2	6
260	4896	1.4167	1	1	1	2	2
261	1844	2.2749	1	1	1	3	5
262	612	3.9477	1	1	3	5	8
263	18146	12.0208	3	5	8	14	24
264	3608	7.4088	2	4	6	9	14
265	3681	6.8036	1	2	4	8	14
266	2698	3.3039	1	1	2	4	7
267	233	4.2060	1	1	3	6	9
268	878	3.4989	1	1	2	4	7
269	7390	8.2441	1	3	6	10	17
270	2623	3.5783	1	1	2	5	8
271	9621	7.6144	2	4	6	9	14
272	5459	6.1597	2	3	5	8	12
273	1286	4.0420	1	2	3	5	8
274	2334	6.5900	1	3	5	8	13
275	246	4.3130	1	1	3	5	9
276	1177	4.6669	1	2	4	6	8
277	85183	5.7309	2	3	5	7	10
278	33396	4.4205	2	3	4	6	8
279	3	2.3333	1	1	2	4	4
280	15577	4.1954	1	2	3	5	8
281	7128	3.0464	1	1	3	4	6
282	3	1.6667	1	1	2	2	2
283	5629	4.5756	1	2	4	6	9
284	1868	3.1124	1	1	2	4	6
285	6195	10.3080	3	5	8	13	20
286	2070	6.4396	2	3	5	7	13
287	5676	10.5374	3	5	7	12	21
288	2639	5.7704	2	3	4	6	9
289	4765	3.0002	1	1	2	3	7
290	8753	2.3103	1	1	2	2	4
291	65	1.8462	1	1	1	2	3

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
292	4654	10.4850	2	4	8	13	21
293	624	5.5096	1	2	4	7	12
294	87857	4.6066	1	2	4	6	9
295	3277	3.7376	1	2	3	5	7
296	235003	5.1556	2	2	4	6	10
297	43573	3.4124	1	2	3	4	6
298	86	2.8256	1	1	2	3	5
299	1178	5.2199	1	2	4	7	10
300	15999	6.1363	2	3	5	8	12
301	3208	3.6234	1	2	3	4	7
302	7703	8.8384	4	5	7	10	15
303	19452	8.4231	4	5	7	10	15
304	11765	8.7340	2	4	6	11	18
305	2984	3.6384	1	2	3	5	7
306	7320	5.6291	1	2	3	8	13
307	2082	2.2517	1	1	2	3	4
308	7463	6.1733	1	2	4	8	14
309	4096	2.2954	1	1	2	3	4
310	23873	4.4002	1	1	3	6	10
311	7963	1.8339	1	1	1	2	3
312	1487	4.4654	1	1	3	6	10
313	591	2.3316	1	1	1	3	5
315	30147	7.0663	1	1	4	9	16
316	104601	6.6228	2	3	5	8	13
317	1507	2.8779	1	1	2	3	6
318	5584	5.9979	1	3	5	8	12
319	422	2.7725	1	1	2	3	6
320	186678	5.3171	2	3	4	6	10
321	30428	3.7951	1	2	3	5	7
322	61	4.1475	2	2	3	5	8
323	17241	3.2172	1	1	2	4	7
324	7479	1.8826	1	1	1	2	3
325	8160	3.8241	1	2	3	5	7
326	2676	2.6648	1	1	2	3	5
327	11	3.0909	1	1	3	4	5
328	663	3.6305	1	1	3	5	8
329	77	2.0130	1	1	1	2	4
331	46045	5.5426	1	3	4	7	11
332	4930	3.2917	1	1	2	4	7
333	281	5.0569	1	2	4	6	10
334	8654	4.4386	2	3	4	5	7
335	10721	3.1791	2	2	3	4	5
336	9563	3.7848	1	2	3	4	8
337	3041	2.1500	1	1	2	3	3
338	1226	5.1117	1	2	3	7	11
339	1344	4.9821	1	1	3	7	12
340	1	1.0000	1	1	1	1	1
341	2738	3.1088	1	1	1	3	6
342	298	3.4094	1	1	2	4	7
344	3502	2.3829	1	1	1	2	5
345	410	5.1244	1	2	3	6	10
346	4441	5.8726	1	3	4	7	12
347	365	2.9479	1	1	2	4	6
350	6270	4.3933	1	2	4	5	8
352	756	3.9577	1	2	3	5	8
353	2533	6.4212	2	3	5	7	12
354	7562	5.8375	3	3	4	7	11
355	5504	3.2862	2	3	3	4	5
356	25128	2.2924	1	1	2	3	4
357	5548	8.4874	3	4	7	10	16
358	20294	4.3121	2	3	3	5	7
359	29890	2.7295	2	2	3	3	4
360	15941	2.8557	1	2	2	3	5
361	378	2.9233	1	1	2	3	5
363	2862	3.4693	1	2	2	3	7
364	1644	3.8534	1	1	3	5	8
365	1722	7.2410	1	3	5	9	16
366	4410	6.7329	1	3	5	8	14
367	583	3.0617	1	1	2	4	6
368	3110	6.4810	2	3	5	8	12

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
369	3133	3.2515	1	1	2	4	7
370	1095	5.8429	3	3	4	5	10
371	1307	3.6526	2	3	3	4	5
372	927	3.2891	1	2	2	3	5
373	3734	2.2499	1	2	2	3	3
374	120	3.1583	1	2	2	3	4
375	10	2.3000	1	2	2	3	4
376	247	3.0931	1	2	2	4	6
377	48	5.0000	1	1	3	6	12
378	157	2.4140	1	1	2	3	4
379	337	3.4303	1	1	2	4	6
380	58	2.1207	1	1	1	2	5
381	152	2.5132	1	1	1	3	5
382	45	1.2889	1	1	1	1	2
383	1707	3.5817	1	1	2	4	7
384	114	2.1842	1	1	1	3	5
385	1	1.0000	1	1	1	1	1
389	15	11.7333	1	3	6	10	24
390	14	4.0000	1	2	3	6	7
391	1	4.0000	4	4	4	4	4
392	2323	9.6750	3	4	7	12	20
394	1870	7.1428	1	2	4	8	16
395	86911	4.4001	1	2	3	6	9
396	15	4.6667	1	2	4	6	7
397	17554	5.1878	1	2	4	7	10
398	17526	5.9417	2	3	5	7	11
399	1721	3.5758	1	2	3	5	7
400	6444	9.1189	1	3	6	12	20
401	5581	11.2575	2	5	9	15	23
402	1498	4.1128	1	1	3	6	9
403	31732	8.0627	2	3	6	10	17
404	4639	4.2720	1	2	3	6	9
406	2513	9.8607	3	4	7	12	20
407	720	4.4417	1	2	4	5	8
408	2178	8.0317	1	2	5	10	18
409	2822	5.9072	2	3	4	6	12
410	33412	3.9069	1	2	4	5	6
411	13	2.3077	1	1	2	2	5
412	29	2.4483	1	1	2	3	4
413	6419	7.0662	2	3	5	9	14
414	767	4.2529	1	2	3	5	9
415	38683	14.2779	4	6	11	18	28
416	183557	7.3848	2	4	6	9	14
417	16	5.0000	2	2	4	6	9
418	22822	6.1160	2	3	5	7	11
419	15294	4.7204	2	2	4	6	9
420	3109	3.5002	1	2	3	4	6
421	11464	3.7872	1	2	3	5	7
422	80	3.0625	1	2	3	4	6
423	7452	8.1162	2	3	6	10	16
424	1275	13.4204	2	5	9	16	26
425	15710	3.9945	1	2	3	5	8
426	4443	4.4510	1	2	3	5	9
427	1633	4.6418	1	2	3	6	9
428	835	6.8192	1	2	4	8	14
429	25967	6.3055	2	3	5	7	12
430	58669	8.0151	2	3	6	10	16
431	313	6.2045	1	3	5	7	11
432	469	4.7271	1	2	3	5	9
433	5418	3.0945	1	1	2	4	6
439	1343	8.4080	1	3	5	10	19
440	5131	9.0209	2	3	6	11	20
441	601	3.2313	1	1	2	4	7
442	15366	8.4839	1	3	6	10	18
443	3730	3.4399	1	1	3	4	7
444	5185	4.1338	1	2	3	5	8
445	2427	2.9250	1	1	2	4	5
447	5451	2.4748	1	1	2	3	5
449	28048	3.7457	1	1	3	5	8
450	6867	2.0051	1	1	1	2	4

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY2000 MEDPAR update 12/00 Grouper V19.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
451	3	1.3333	1	1	1	2	2
452	22666	4.8553	1	2	3	6	10
453	5068	2.8035	1	1	2	3	6
454	3940	4.5652	1	2	3	5	9
455	931	2.5994	1	1	2	3	5
461	3490	4.3739	1	1	2	5	11
462	12994	11.2271	4	6	9	14	21
463	21790	4.1239	1	2	3	5	8
464	6533	2.9963	1	1	2	4	6
465	154	3.4481	1	1	2	4	7
466	1470	3.9925	1	1	2	5	9
467	534	3.8390	1	1	2	4	8
468	56874	12.7662	3	6	10	16	25
471	11639	5.5322	3	4	4	6	9
473	7599	12.5038	1	3	7	18	32
475	107089	11.1800	2	5	9	15	22
476	4126	10.8924	2	5	9	14	21
477	24823	8.1004	1	3	6	11	17
478	106997	7.3166	1	3	5	9	15
479	24939	3.5376	1	1	3	5	7
480	540	20.1370	7	9	13	25	43
481	377	23.9310	10	18	22	27	38
482	5686	12.9474	4	7	10	15	25
483	42087	39.0295	14	22	33	49	70
484	313	12.6773	2	6	10	17	26
485	2880	9.5955	4	5	7	11	18
486	1856	12.4402	1	5	10	16	25
487	3339	7.3612	1	3	6	10	15
488	770	17.0078	3	7	13	22	36
489	14005	8.4383	2	3	6	10	17
490	5378	5.3405	1	2	4	6	10
491	12205	3.4483	2	2	3	4	6
492	2672	15.6662	3	5	8	25	34
493	54859	5.7621	1	3	5	7	11
494	29900	2.4482	1	1	2	3	5
495	153	15.0261	7	9	12	18	26
496	1468	9.5320	4	5	7	12	19
497	17184	6.5116	3	4	5	7	11
498	12708	4.1701	2	3	4	5	6
499	30284	4.6986	1	2	3	6	9
500	43962	2.6146	1	1	2	3	5
501	2180	10.9670	4	6	8	13	21
502	586	6.5648	3	4	5	8	11
503	5551	3.9996	1	2	3	5	7
504	114	29.5877	9	14	24	41	54
505	145	3.3517	1	1	1	3	7
506	915	17.4000	4	8	14	22	35
507	290	8.2621	2	4	7	11	18
508	657	7.4718	2	3	5	9	15
509	176	4.5455	1	2	4	6	9
510	1619	7.1779	2	3	5	9	15
511	602	4.7591	1	2	3	6	10
512	328	15.2439	7	8	11	17	28
513	112	12.6161	6	7	8	12	20
514	16927	7.9786	2	3	6	10	16
515	3774	6.0297	1	1	4	8	14
516	75742	4.7497	2	2	4	6	9
517	171198	2.7066	1	1	2	3	6
518	47731	3.4397	1	1	2	4	8
519	5448	4.7412	1	2	3	6	11
520	10509	2.7887	1	1	2	3	6
521	22732	5.0204	1	2	4	6	9
522	11649	9.7928	3	5	8	12	20
523	14818	4.1079	1	2	3	5	7
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TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS (CASE WEIGHTED) MARCH 2001

State	Urban	Rural
ALABAMA	0.344	0.410
ALASKA	0.417	0.696
ARIZONA	0.356	0.491
ARKANSAS	0.466	0.446
CALIFORNIA	0.339	0.436
COLORADO	0.422	0.577
CONNECTICUT	0.497	0.506
DELAWARE	0.511	0.450
DISTRICT OF COLUMBIA	0.508	.....
FLORIDA	0.352	0.369
GEORGIA	0.459	0.470
HAWAII	0.413	0.554
IDAHO	0.545	0.561
ILLINOIS	0.406	0.502
INDIANA	0.524	0.533
IOWA	0.486	0.612
KANSAS	0.421	0.635
KENTUCKY	0.479	0.492
LOUISIANA	0.410	0.488
MAINE	0.615	0.543
MARYLAND	0.759	0.819
MASSACHUSETTS	0.512	0.571
MICHIGAN	0.460	0.563
MINNESOTA	0.494	0.589
MISSISSIPPI	0.452	0.447
MISSOURI	0.405	0.479
MONTANA	0.537	0.594
NEBRASKA	0.449	0.610
NEVADA	0.306	0.498
NEW HAMPSHIRE	0.549	0.581
NEW JERSEY	0.394	.....
NEW MEXICO	0.466	0.491
NEW YORK	0.528	0.609
NORTH CAROLINA	0.516	0.464
NORTH DAKOTA	0.620	0.654
OHIO	0.501	0.570
OKLAHOMA	0.409	0.494
OREGON	0.613	0.595
PENNSYLVANIA	0.398	0.525
PUERTO RICO	0.486	0.583
RHODE ISLAND	0.520	.....
SOUTH CAROLINA	0.440	0.463
SOUTH DAKOTA	0.529	0.638
TENNESSEE	0.438	0.453
TEXAS	0.402	0.494
UTAH	0.497	0.586
VERMONT	0.572	0.599
VIRGINIA	0.454	0.494
WASHINGTON	0.583	0.638
WEST VIRGINIA	0.568	0.527
WISCONSIN	0.525	0.611
WYOMING	0.522	0.717

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) MARCH 2001

State	Ratio
ALABAMA	0.044
ALASKA	0.058
ARIZONA	0.037
ARKANSAS	0.049
CALIFORNIA	0.034
COLORADO	0.045
CONNECTICUT	0.036
DELAWARE	0.051
DISTRICT OF COLUMBIA	0.040
FLORIDA	0.043
GEORGIA	0.051
HAWAII	0.038
IDAHO	0.046
ILLINOIS	0.040
INDIANA	0.056
IOWA	0.050
KANSAS	0.050
KENTUCKY	0.046
LOUISIANA	0.048
MAINE	0.040
MARYLAND	0.013
MASSACHUSETTS	0.053
MICHIGAN	0.044
MINNESOTA	0.047
MISSISSIPPI	0.044
MISSOURI	0.044
MONTANA	0.058
NEBRASKA	0.054
NEVADA	0.030
NEW HAMPSHIRE	0.061
NEW JERSEY	0.036
NEW MEXICO	0.045
NEW YORK	0.051
NORTH CAROLINA	0.046
NORTH DAKOTA	0.072
OHIO	0.048
OKLAHOMA	0.046
OREGON	0.046
PENNSYLVANIA	0.039
PUERTO RICO	0.045
RHODE ISLAND	0.029
SOUTH CAROLINA	0.046
SOUTH DAKOTA	0.059
TENNESSEE	0.049
TEXAS	0.046
UTAH	0.047
VERMONT	0.052
VIRGINIA	0.055
WASHINGTON	0.063
WEST VIRGINIA	0.045
WISCONSIN	0.051
WYOMING	0.065

Appendix A—Regulatory Impact Analysis

I. Introduction

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities. We estimate the total impact of these changes for FY 2002 payments compared to FY 2001 payments to be approximately a $1.7 billion increase. Therefore, we have prepared an impact analysis for this proposed rule.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Public Law 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment systems, we classify these hospitals as urban hospitals.

It is clear that the changes being proposed in this document would affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. Therefore, the discussion below, in combination with the rest of this proposed rule, constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that the proposed rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Section 202 of the Unfunded Mandate Reform Act of 1995 (Public Law 104–4) also requires that agencies assess anticipated costs and benefits before issuing any proposed rule (or a final rule that has been preceded by a proposed rule) that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This proposed rule would not mandate any requirements for State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

II. Objectives

The primary objective of the hospital inpatient prospective payment system is to create incentives for hospitals to operate efficiently and minimize unnecessary costs while at the same time ensuring that payments are sufficient to adequately compensate hospitals for their legitimate costs. In addition, we share national goals of preserving the Medicare Trust Fund.

We believe the proposed changes would further each of these goals while maintaining the financial viability of the hospital industry and ensuring access to high quality health care for Medicare beneficiaries. We expect that these proposed changes would ensure that the outcomes of this payment system are reasonable and equitable while avoiding or minimizing unintended adverse consequences.

III. Limitations of Our Analysis

As has been the case in our previously published regulatory impact analyses, the following quantitative analysis presents the projected effects of our proposed policy changes, as well as statutory changes

effective for FY 2002, on various hospital groups. We estimate the effects of individual policy changes by estimating payments per case while holding all other payment policies constant. We use the best data available, but we do not attempt to predict behavioral responses to our policy changes, and we do not make adjustments for future changes in such variables as admissions, lengths of stay, or case-mix. As we have done in previous proposed rules, we are soliciting comments and information about the anticipated effects of these changes on hospitals and our methodology for estimating them.

IV. Hospitals Included In and Excluded From the Prospective Payment System

The prospective payment systems for hospital inpatient operating and capital-related costs encompass nearly all general, short-term, acute care hospitals that participate in the Medicare program. There were 44 Indian Health Service hospitals in our database, which we excluded from the analysis due to the special characteristics of the prospective payment method for these hospitals. Among other short-term, acute care hospitals, only the 67 such hospitals in Maryland remain excluded from the prospective payment system under the waiver at section 1814(b)(3) of the Act. Thus, as of February 2001, we have included 4,583 hospitals in our analysis. This represents about 80 percent of all Medicare-participating hospitals. The majority of this impact analysis focuses on this set of hospitals.

The remaining 20 percent are specialty hospitals that are excluded from the prospective payment system and continue to be paid on the basis of their reasonable costs (subject to a rate-of-increase ceiling on their inpatient operating costs per discharge). These hospitals include psychiatric, rehabilitation, long-term care, children's, and cancer hospitals. The impacts of our final policy changes on these hospitals are discussed below.

V. Impact on Excluded Hospitals and Units

As of February 2001, there were 1,058 specialty hospitals excluded from the prospective payment system and instead paid on a reasonable cost basis subject to the rate-of-increase ceiling under § 413.40. Broken down by specialty, there were 517 psychiatric, 203 rehabilitation, 253 long-term care, 75 children's, and 10 cancer hospitals. In addition, there were 1,457 psychiatric units and 925 rehabilitation units in hospitals otherwise subject to the prospective payment system. These excluded units are also paid in accordance with § 413.40. Under § 413.40(a)(2)(i)(A), the rate-of-increase ceiling is not applicable to the 67 specialty hospitals and units in Maryland that are paid in accordance with the waiver at section 1814(b)(3) of the Act.

As required by section 1886(b)(3)(B) of the Act, the update factor applicable to the rate-of-increase limit for excluded hospitals and units for FY 2002 would be between 0.5 and 3.0 percent, or 0 percent, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available.

The impact on excluded hospitals and units of the update in the rate-of-increase limit depends on the cumulative cost increases experienced by each excluded hospital or unit since its applicable base period. For excluded hospitals and units that have maintained their cost increases at a level below the percentage increases in the rate-of-increase limits since their base period, the major effect will be on the level of incentive payments these hospitals and units receive. Conversely, for excluded hospitals and units with per-case cost increases above the cumulative update in their rate-of-increase limits, the major effect will be the amount of excess costs that would not be reimbursed.

We note that, under § 413.40(d)(3), an excluded hospital or unit whose costs exceed 110 percent of its rate-of-increase limit receives its rate-of-increase limit plus 50 percent of the difference between its reasonable costs and 110 percent of the limit, not to exceed 110 percent of its limit. In addition, under the various provisions set forth in § 413.40, certain excluded hospitals and units can obtain payment adjustments for justifiable increases in operating costs that exceed the limit. At the same time, however, by generally limiting payment increases, we continue to provide an incentive for excluded hospitals and units to restrain the growth in their spending for patient services.

VI. Graduate Medical Education Impact

A. National Average Per Resident Amount (PRA)

As discussed in detail in section IV.G.2. of this proposed rule, we are proposing to implement section 511 of Public Law 106–554, which increases the floor of the locality-adjusted national average (PRA for the purposes of computing direct GME payments for cost reporting periods beginning during FY 2002. The national average PRA payment methodology, as provided in section 311 of Public Law 106–113, establishes a ''floor'' and ''ceiling'' based on a locality-adjusted, updated national average PRA for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2005. Section 511 of Public Law 106–554 increased the floor from 70 percent to equal 85 percent of a locality-adjusted national average PRA for FY 2002.

For this purpose rule, we have calculated an estimated impact of this proposed policy on teaching hospital's PRAs for FY 2002, making assumptions about update factors and geographic adjustment factors (GAF) for each hospital. Generally, using FY 1997 data, we calculated a floor based on 70 percent of the national average PRA and a floor based on 85 percent of the national average PRA. We then determined the amount of direct GME payments that would have been paid had the floor remained at 70 percent of the national average PRA. Next, we determined the amount of direct GME payments that would be paid with the floor increased to equal 85 percent of the national average PRA. We subtracted the difference between the two and inflated the difference to FY 2002 to determine the impact of this provision.

The figures we use in this impact, except for the FY 1997 weighted PRA of $68,464, are estimations and are for demonstrative purposes only. Hospitals must use the methodology stated in section IV.G. of this proposed rule to revise (if appropriate) their individual PRAs.

In calculating this impact, we used Medicare cost report data for all cost reports ending in FY 1997. We excluded hospitals that file manual cost reports because we did not have access to their Medicare utilization data. We also excluded all teaching hospitals in Maryland, because these hospitals are paid on a Medicare waiver outside of the prospective payment system, and those hospitals' PRAs do not determine their level of direct GME payments. For hospitals that had two cost reporting periods ending in FY 1997, we used the later of the two periods. A total of 1,231 teaching hospitals were included in the analysis.

Using the FY 1997 weighted average PRA of $68,464, we determined an 85 percent floor of $58,194 for FY 1997. We then determined that, for cost reporting periods ending in FY 1997, approximately 562 hospitals had PRAs that were below $58,194 (336 hospitals of these hospitals had PRAs that were below the 70-percent floor, and 226 hospitals had PRAs that were above the 70-percent floor but below the 85-percent floor). The estimated total cost to the Medicare program in FY 2002 of replacing the PRAs of the 562 hospitals with the 85-percent floor is $104.4 million.

B. Closed Training Programs or Hospitals That Close Their Training Programs

As discussed in IV.G.5, of this proposed rule, we are proposing to allow a hospital to receive a temporary adjustment to its FTE cap to reflect residents added because of the closure of another hospital's GME program if the hospital that closed its program agrees to temporarily reduce its FTE cap. We have calculated an estimated impact on the Medicare program for FY 2002 as a result of this proposal. We used the best available cost report data from the FY 1997 HCRIS in our analysis.

We estimate that approximately 5 to 10 programs, each with an average of 25 residents, close each year without advance warning, displacing the residents before they complete their training. Therefore, the number of residents displaced each year could be between 125 and 250. We estimated the impact of this proposed change based on direct GME and IME payment amounts in FY 1997 to determine a total GME amount and updated the total with the CPI–U for FY 2002. At most, the estimated impact for this proposed provision for FY 2002 is moving payments of between $10 and $20 million among different hospitals. This would result from redirecting these payments from the hospital that closed its program to the hospital(s) that takes on the residents.

VII. Quantitative Impact Analysis of the Proposed Policy Changes Under the Prospective Payment System for Operating Costs

A. Basis and Methodology of Estimates

In this proposed rule, we are announcing policy changes and payment rate updates for

the prospective payment systems for operating and capital-related costs. We have prepared separate impact analyses of the proposed changes to each system. This section deals with changes to the operating prospective payment system.

The data used in developing the quantitative analyses presented below are taken from the FY 2000 MedPAR file and the most current provider-specific file that is used for payment purposes. Although the analyses of the changes to the operating prospective payment system do not incorporate cost data, the most recently available hospital cost report data were used to categorize hospitals. Our analysis has several qualifications. First, we do not make adjustments for behavioral changes that hospitals may adopt in response to these proposed policy changes. Second, due to the interdependent nature of the prospective payment system, it is very difficult to precisely quantify the impact associated with each proposed change. Third, we draw upon various sources for the data used to categorize hospitals in the tables. In some cases, particularly the number of beds, there is a fair degree of variation in the data from different sources. We have attempted to construct these variables with the best available source overall. For individual hospitals, however, some miscategorizations are possible.

Using cases in the FY 2000 MedPAR file, we simulated payments under the operating prospective payment system given various combinations of payment parameters. Any short-term, acute care hospitals not paid under the general prospective payment systems (Indian Health Service hospitals and hospitals in Maryland) are excluded from the simulations. Payments under the capital prospective payment system, or payments for costs other than inpatient operating costs, are not analyzed here. Estimated payment impacts of proposed FY 2001 changes to the capital prospective payment system are discussed in section IX. of this Appendix.

The proposed changes discussed separately below are the following:

- The effects of the annual reclassification of diagnoses and procedures and the recalibration of the diagnosis-related group (DRG) relative weights required by section 1886(d)(4)(C) of the Act.
- The effects of changes in hospitals' wage index values reflecting wage data from hospitals' cost reporting periods beginning during FY 1998, compared to the FY 1997 wage data.
- The effects of our proposal to increase the accuracy of the wage index calculation by changing the overhead allocation method used so that the salaries and hours of lower-range, overhead employees and the overhead wage-related costs associated with the excluded areas of the hospital are more accurately removed when calculating the overhead costs attributable to wages.
- The effects of our proposal to include the contract labor costs of laboratories and pharmacies from Worksheet S–3 Part II Lines 9.01 and 9.02 in the wage index calculation.
- The combined effects of our proposed changes to the wage index data and calculations and the changes in the DRG recalibration.
- The effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB) that will be effective in FY 2002 not including the effects of our proposed policy to hold-harmless other hospitals in an urban area where certain hospitals are reclassified elsewhere by including the wage data of reclassified hospitals in their geographic area as well as the area to which they are reclassified.
- The effects of geographic reclassifications by the MGCRB that will be effective in FY 2002 including the effects of our proposed policy to hold-harmless other hospitals in an urban area where certain hospitals are reclassified elsewhere by including the wage data of reclassified hospitals in their geographic area as well as the area to which they are reclassified.
- The total change in payments based on FY 2002 policies relative to payments based on FY 2001 policies.

To illustrate the impacts of the FY 2002 proposed changes, our analysis begins with a FY 2002 baseline simulation model using: the FY 2001 DRG GROUPER (version 18.0); the FY 2001 wage index; and no MGCRB reclassifications. Outlier payments are set at 5.1 percent of total DRG plus outlier payments.

Each proposed and statutory policy change is then added incrementally to this baseline model, finally arriving at an FY 2002 model incorporating all of the changes. This allows us to isolate the effects of each change.

Our final comparison illustrates the percent change in payments per case from FY 2001 to FY 2002. Five factors have significant impacts here. The first is the update to the standardized amounts. In accordance with section 1886(d)(3)(A)(iv) of the Act, as amended by section 301 of Public Law 106–554, we are proposing to update the large urban and the other areas average standardized amounts for FY 2002 using the most recently forecasted hospital market basket increase for FY 2002 of 3.1 percent minus 0.55 percentage points (for an update of 2.55 percent). Under section 1886(b)(3) of the Act, the updates to the hospital-specific amounts for sole community hospitals (SCHs) and for Medicare-dependent small rural hospitals (MDHs) is equal to the market basket increase of 3.1 percent minus 0.55 percentage points (for an update of 2.55 percent).

A second significant factor that impacts changes in hospitals' payments per case from FY 2001 to FY 2002 is the change in MGCRB status from one year to the next. That is, hospitals reclassified in FY 2001 that are no longer reclassified in FY 2002 may have a negative payment impact going from FY 2001 to FY 2002; conversely, hospitals not reclassified in FY 2001 that are reclassified in FY 2002 may have a positive impact. In some cases, these impacts can be quite substantial, so if a relatively small number of hospitals in a particular category lose their reclassification status, the percentage change in payments for the category may be below the national mean. This effect may be alleviated somewhat by section 304(a) of Public Law 106–554, which provided that reclassifications for purposes of the wage index are for a 3 year period.

A third significant factor is that we currently estimate that actual outlier payments during FY 2001 will be 5.9 percent of actual total DRG payments. When the FY 2001 final rule was published, we projected FY 2001 outlier payments would be 5.1 percent of total DRG plus outlier payments; the standardized amounts were offset correspondingly. The effects of the higher than expected outlier payments during FY 2001 (as discussed in the Addendum to this proposed rule) are reflected in the analyses below comparing our current estimates of FY 2001 payments per case to estimated FY 2002 payments per case.

Fourth, section 213 of Public Law 106–554 provided that all SCHs may receive payment on the basis of their costs per case during their cost reporting period that began during 1996. For FY 2001, eligible SCHs that are rebased receive a hospital-specific rate comprised of the greater of 50-percent of the higher of their FY 1982 or FY 1987 hospital-specific rate or 50-percent of the federal rate, and 50-percent of their FY 1996 hospital-specific rate.

Fifth, sections 302 and 303 of Public Law 106–554 affect payments for indirect medical education (IME) and disproportionate share hospitals (DSH), respectively. These sections increased IME and DSH payments during FY 2001 (effective with discharges on or after April 1, 2001). For FY 2002, section 302 established IME payments at the same level as FY 2001 (6.5 percent), and section 303 established DSH payments at the adjustment the hospital would otherwise receive minus 3 percent.

Table I demonstrates the results of our analysis. The table categorizes hospitals by various geographic and special payment consideration groups to illustrate the varying impacts on different types of hospitals. The top row of the table shows the overall impact on the 4,795 hospitals included in the analysis. This number is 93 fewer hospitals than were included in the impact analysis in the FY 2001 final rule (65 FR 47191).

The next four rows of Table I contain hospitals categorized according to their geographic location (all urban (which is further divided into large urban and other urban) and rural). There are 2,721 hospitals located in urban areas (MSAs or NECMAs) included in our analysis. Among these, there are 1,563 hospitals located in large urban areas (populations over 1 million), and 1,158 hospitals in other urban areas (populations of 1 million or fewer). In addition, there are 2,074 hospitals in rural areas. The next two groupings are by bed-size categories, shown separately for urban and rural hospitals. The final groupings by geographic location are by census divisions, also shown separately for urban and rural hospitals.

The second part of Table I shows hospital groups based on hospitals' FY 2002 payment classifications, including any reclassifications under section 1886(d)(10) of the Act. For example, the rows labeled urban, large urban, other urban, and rural show that the number of hospitals paid based on these categorizations (after consideration of geographic reclassifications) are 2,766, 1,643, 1,123, and 2,029, respectively.

The next three groupings examine the impacts of the proposed changes on hospitals

grouped by whether or not they have residency programs (teaching hospitals that receive an IME adjustment) or receive DSH payments, or some combination of these two adjustments. There are 3,674 non-teaching hospitals in our analysis, 881 teaching hospitals with fewer than 100 residents, and 240 teaching hospitals with 100 or more residents.

In the DSH categories, hospitals are grouped according to their DSH payment status, and whether they are considered urban or rural after MGCRB reclassifications. Hospitals in the rural DSH categories, therefore, represent hospitals that were not reclassified for purposes of the standardized amount or for purposes of the DSH adjustment. (They may, however, have been reclassified for purposes of the wage index.) We note that section 211 of Public Law 106–554 reduced the qualifying DSH threshold to 15 percent for all hospitals (this threshold previously applied to urban hospitals with 100 or more beds and rural hospitals with 500 or more beds). Consequently, many more hospitals qualify for DSH. In the FY 2001 final rule, there were 3,070 hospitals that did not receive a DSH adjustment (65 FR 47192). In Table I, that number declines to 1,879. The number of urban hospitals with fewer than 100 beds receiving DSH increases from 72 prior to section 211 to 325 after its implementation. Among rural hospitals with fewer than 100 beds, 103 received DSH prior to section 211; for FY 2002 that number increases to 443.

The next category groups hospitals considered urban after geographic reclassification, in terms of whether they receive the IME adjustment, the DSH adjustment, both, or neither.

The next five rows examine the impacts of the proposed changes on rural hospitals by special payment groups (SCHs, rural referral centers (RRCs), and MDHs), as well as rural hospitals not receiving a special payment designation. The RRCs (165), SCHs (667), MDHs (328), and SCH and RRCs that are not included in the SCH or the RRC categories (69) shown here were not reclassified for purposes of the standardized amount. There are 20 RRCs, 1 MDH, 5 SCHs and 2 SCH and RRCs that will be reclassified as urban for the standardized amount in FY 2002 and, therefore, are not included in these rows.

The next two groupings are based on type of ownership and the hospital's Medicare utilization expressed as a percent of total patient days. These data are taken primarily from the FY 1999 Medicare cost report files, if available (otherwise FY 1998 data are used). Data needed to determine ownership status or Medicare utilization percentages were unavailable for 46 and 78 hospitals, respectively. For the most part, these are new hospitals.

The next series of groupings concern the geographic reclassification status of hospitals. The first grouping displays all hospitals that were reclassified by the MGCRB for FY 2002. The next two groupings separate the hospitals in the first group by urban and rural status. The final row in Table I contains hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act.

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM

[Percent changes in payments per case]

	Number of hosps.[1] (0)	DRG re-calib.[2] (1)	New wage data[3] (2)	New over-head alloc.[4] (3)	Include contract labor[5] (4)	DRG & WI changes[6] (5)	MCGRB reclassi-fication[7] (6)	Reclassi-fication hold-harm-less policy[8] (7)	All FY 2001 changes[9] (8)
By Geographic Location:									
All hospitals	4,795	0.5	0.2	0.0	0.0	0.0	−0.2	0.2	1.9
Urban hospitals	2,721	0.6	0.2	0.0	0.0	0.0	−0.7	0.2	1.7
Large urban areas (populations over 1 million)	1,563	0.7	−0.1	0.0	0.0	−0.1	−0.8	0.3	1.5
Other urban areas (populations of 1 million of fewer)	1,158	0.5	0.6	0.0	0.0	0.2	−0.5	0.1	2.0
Rural hospitals	2,074	−0.1	0.5	0.1	0.1	−0.2	2.7	0.1	3.2
Bed Size (Urban):									
0–99 beds	712	−0.1	0.3	0.0	0.0	−0.4	−0.8	0.2	2.1
100–199 beds	943	0.4	0.2	0.0	0.0	−0.2	−0.7	0.3	1.6
200–299 beds	530	0.6	0.3	0.0	0.1	0.1	−0.7	0.3	1.8
300–499 beds	391	0.7	0.1	0.0	0.0	0.0	−0.7	0.2	1.6
500 or more beds	145	1.0	0.0	0.0	0.0	0.2	−0.6	0.1	1.5
Bed Size (Rural):									
0–49 beds	1,209	−0.4	0.5	0.1	0.1	−0.5	0.4	0.0	3.0
50–99 beds	520	−0.2	0.5	0.1	0.1	−0.4	1.1	0.0	3.3
100–149 beds	204	−0.1	0.6	0.1	0.1	−0.1	3.2	0.2	3.0
150–199 beds	75	0.1	0.4	0.1	0.1	−0.1	5.2	0.2	3.4
200 or more beds	66	0.3	0.4	0.1	0.1	0.0	5.2	0.1	3.6
Urban by Region:									
New England	139	0.6	2.2	−0.1	0.0	1.3	−0.2	0.0	1.7
Middle Atlantic	417	0.7	−1.2	−0.1	0.0	−1.4	−0.8	0.6	0.2
South Atlantic	395	0.7	0.9	0.0	0.0	0.9	−0.8	0.3	2.8
East North Central	462	0.5	0.1	0.0	0.1	−0.2	−0.6	0.1	1.6
East South Central	160	0.6	1.1	0.1	0.0	1.1	−0.7	0.0	3.0
West North Central	189	0.6	0.5	0.1	0.1	0.3	−0.7	0.0	2.0
West South Central	342	0.7	−0.8	0.0	0.0	−0.9	−0.7	0.0	0.7
Mountain	137	0.6	0.9	0.0	0.0	0.7	−0.7	0.0	2.4
Pacific	434	0.7	0.4	0.1	0.0	0.4	−0.8	0.2	2.2
Puerto Rico	46	0.4	1.3	0.1	0.0	1.0	−0.5	−0.3	2.6
Rural by Region:									

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Percent changes in payments per case]

	Number of hosps.[1] (0)	DRG re-calib.[2] (1)	New wage data[3] (2)	New over-head alloc.[4] (3)	Include contract labor[5] (4)	DRG & WI changes[6] (5)	MCGRB reclassi-fication[7] (6)	Reclassi-fication hold-harm-less policy[8] (7)	All FY 2001 changes[9] (8)
New England	49	0.0	0.6	0.1	0.0	−0.1	3.0	0.1	3.7
Middle Atlantic	74	0.0	−0.2	0.0	0.0	−1.0	2.5	0.0	2.2
South Atlantic	267	0.1	0.6	0.1	0.1	0.0	2.9	0.1	3.6
East North Central	273	−0.2	0.6	0.0	0.1	−0.3	2.2	0.2	2.8
East South Central	263	0.0	0.5	0.1	0.1	−0.2	3.3	0.0	3.6
West North Central	479	−0.3	0.8	0.2	0.1	−0.1	2.1	0.1	2.5
West South Central	331	−0.1	0.7	0.1	0.1	0.0	3.5	0.1	4.2
Mountain	194	−0.1	0.4	0.2	0.0	−0.4	1.9	0.0	2.9
Pacific	139	0.0	−0.2	0.1	0.1	−0.9	2.3	0.1	2.7
Puerto Rico	5	−0.3	3.9	0.1	0.0	2.9	1.9	−0.8	8.4
By Payment Classification:									
Urban hospitals	2,766	0.6	0.2	0.0	0.0	0.0	−0.7	0.2	1.7
Large urban areas (populations over 1 million)	1,643	0.7	−0.1	0.0	0.0	−0.1	−0.7	0.3	1.5
Other urban areas (populations of 1 million of fewer)	1,123	0.5	0.6	0.0	0.0	0.2	−0.6	0.1	2.0
Rural areas	2,029	−0.1	0.5	0.1	0.1	−0.2	2.5	0.0	3.2
Teaching Status:									
Non-teaching	3,674	0.3	0.4	0.0	0.0	−0.1	0.2	0.2	2.2
Fewer than 100 Residents	881	0.6	0.3	0.0	0.0	0.1	−0.6	0.2	1.9
100 or more Residents	240	1.0	−0.2	0.0	0.0	0.0	−0.5	0.1	1.3
Urban DSH:									
Non-DSH	1,879	0.4	0.2	0.0	0.0	−0.1	−0.2	0.3	1.7
100 or more beds	1,378	0.7	0.2	0.0	0.0	0.1	−0.7	0.2	1.7
Less than 100 beds	325	0.0	0.4	0.1	0.0	−0.3	−0.8	0.3	3.3
Rural DSH:									
Sole Community (SCH)	540	−0.2	0.4	0.1	0.0	−0.5	0.4	0.0	3.1
Referral Center (RRC)	157	0.2	0.5	0.1	0.1	0.0	5.3	0.1	3.7
Other Rural:									
100 or more beds	73	−0.1	0.7	0.1	0.1	−0.1	1.3	0.1	3.2
Less than 100 beds	443	−0.2	0.5	0.1	0.1	−0.4	0.6	0.0	4.3
Urban teaching and DSH:									
Both teaching and DSH	754	0.8	0.1	0.0	0.0	0.0	−0.7	0.2	1.6
Teaching and no DSH	295	0.7	0.2	0.0	0.1	0.0	−0.6	0.3	1.6
No teaching and DSH	949	0.4	0.4	0.0	0.0	0.1	−0.6	0.3	2.0
No teaching and no DSH	768	0.3	0.2	0.0	0.0	−0.2	−0.6	0.3	1.5
Rural Hospital Types:									
Non special status hospitals	800	−0.3	0.7	0.1	0.1	−0.2	0.9	0.0	3.6
RRC	165	0.2	0.5	0.1	0.1	0.0	6.3	0.1	3.6
SCH	667	−0.2	0.4	0.1	0.0	−0.5	0.4	0.0	2.5

TABLE I.—IMPACT ANALYSIS OF CHANGES FOR FY 2002 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Percent changes in payments per case]

	Number of hosps.[1] (0)	DRG recalib.[2] (1)	New wage data[3] (2)	New overhead alloc.[4] (3)	Include contract labor[5] (4)	DRG & WI changes[6] (5)	MCGRB reclassification[7] (6)	Reclassification hold-harmless policy[8] (7)	All FY 2001 changes[9] (8)
Medicare-dependent hospitals (MDH)	328	−0.3	0.5	0.1	0.1	−0.5	0.5	0.0	3.2
SCH and RRC	69	0.1	0.4	0.0	0.0	−0.3	2.5	0.0	2.7
Type of Ownership:									
Voluntary	2,785	0.6	0.2	0.0	0.0	−0.1	−0.3	0.2	1.8
Proprietary	777	0.6	0.2	0.1	0.0	0.1	−0.3	0.2	2.0
Government	1,187	0.5	0.6	0.1	0.0	0.3	0.1	0.1	2.5
Unknown	46	0.3	1.3	0.0	0.0	0.7	−1.7	1.0	2.6
Medicare Utilization as a Percent of Inpatient Days:									
0–25	396	0.9	0.2	0.0	0.0	0.4	−0.5	0.1	2.2
25–50	1,886	0.7	0.1	0.0	0.0	0.0	−0.6	0.2	1.7
50–65	1,843	0.4	0.4	0.0	0.0	0.0	0.1	0.2	2.2
Over 65	592	0.2	0.2	0.0	0.1	−0.2	0.2	0.3	1.9
Unknown	78	0.5	−2.1	−0.1	0.0	−2.4	−0.7	0.1	−1.1
Hospitals Reclassified by the Medicare Geographic Classification Review Board: FY 2002									
Reclassifications:									
All Reclassified Hospitals	636	0.3	0.6	0.0	0.1	0.2	4.5	0.3	2.9
Standardized Amount Only	74	0.1	0.7	0.0	0.0	0.0	1.9	1.0	4.0
Wage Index Only	391	0.3	0.5	0.1	0.1	0.1	5.3	0.1	2.5
Both	58	0.4	0.7	0.0	0.1	0.4	4.1	0.6	0.0
Nonreclassified Hospitals	4,246	0.6	0.2	0.0	0.0	0.0	−0.8	0.2	1.9
All Reclassified Urban Hospitals	119	0.7	0.8	0.0	0.1	0.6	2.8	0.4	2.0
Urban Nonreclassified Hospitals	18	0.2	0.5	0.0	0.0	−0.2	−1.2	1.9	−0.6
Standardized Amount Only	81	0.8	0.7	0.0	0.1	0.6	3.3	0.1	2.2
Wage Index Only	20	0.5	1.4	0.0	0.1	1.1	1.9	2.1	2.5
Both	2,564	0.6	0.2	0.0	0.0	0.0	−0.9	0.2	1.6
All Reclassified Rural Hospitals	517	0.1	0.5	0.1	0.1	−0.1	5.6	0.2	3.6
Standardized Amount Only	19	−0.2	0.5	0.1	0.0	−0.5	3.9	1.5	2.0
Wage Index Only	475	0.1	0.5	0.1	0.1	−0.1	5.5	0.1	3.6
Both	23	0.1	0.8	0.1	0.1	0.2	7.7	1.5	4.2
Rural Nonreclassified Hospitals	1,554	−0.3	0.5	0.1	0.1	−0.4	−0.6	0.0	2.8
Other Reclassified Hospitals (Section 1886(D)(8)(B))	41	−0.1	−6.1	0.1	0.1	0.4	0.3	0.1	3.9

[1] Because data necessary to classify some hospitals by category were missing, the total number of hospitals in each category may not equal the national total. Discharge data are from FY 2000, and hospital cost report data are from reporting periods beginning in FY 1999 and FY 1998.

[2] This column displays the payment impact of the recalibration of the DRG weights based on FY 2000 MedPAR data and the DRG reclassification changes, in accordance with section 1886(d)(4)(C) of the Act.

[3] This column shows the payment effects of updating the data used to calculate the wage index with data from the FY 1998 cost reports.

[4] This column displays the impact of removing the salaries and hours of lower-range, overhead employees and the overhead wage-related costs associated with the excluded areas of the hospital from the wage index calculation.

[5] This column displays the impact of including contract pharmacy and contract laboratory costs and hours in the wage index calculation.

[6] This column displays the combined impact of the reclassification and recalibration of the DRGs, the updated and revised wage data used to calculate the wage index, the revised overhead allocation, the laboratory and pharmacy contract labor costs, and the budget neutrality adjustment factor for these two changes, in accordance with sections 1886(d)(4)(C)(iii) and 1886(d)(3)(E) of the Act. Thus, it represents the combined impacts shown in columns 1, 2 3, and 4, and the FY 2002 budget neutrality factor of .992394.

[7] Shown here are the effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB). The effects demonstrate the FY 2002 payment impact of going from no reclassifications to the reclassifications scheduled to be in effect for FY 2002. Reclassification for prior years has no bearing on the payment impacts shown here.

[8] Shown here are the effects of geographic reclassifications by the MGCRB including the effects of our proposed policy to hold-harmless other hospitals in an urban area where certain hospitals are reclassified elsewhere by including the wage data of reclassified hospitals in their geographic area as well as the area to which they are reclassified.

[9] This column shows changes in payments from FY 2001 to FY 2002. It incorporates all of the changes displayed in columns 5, 6, and 7 (the changes displayed in columns 1, 2, 3, and 4 are included in column 5). It also displays the impact of the FY 2002 update, changes in hospitals' reclassification status in FY 2002 compared to FY 2001, and the difference in outlier payments from FY 2001 to FY 2002. It also reflects section 213 of Public Law 106–554, which permitted all SCHs to rebase for a 1996 hospital-specific rate. The sum of these columns may be different from the percentage changes shown here due to rounding and interactive effects.

B. Impact of the Proposed Changes to the DRG Reclassifications and Recalibration of Relative Weights (Column 1)

In column 1 of Table I, we present the combined effects of the DRG reclassifications and recalibration, as discussed in section II. of the preamble to this proposed rule. Section 1886(d)(4)(C)(i) of the Act requires us to annually make appropriate classification changes and to recalibrate the DRG weights in order to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

We compared aggregate payments using the FY 2001 DRG relative weights (GROUPER version 18) to aggregate payments using the proposed FY 2002 DRG relative weights (GROUPER version 19). Overall payments increase 0.5 percent due to the DRG reclassification and recalibration. We note that, consistent with section 1886(d)(4)(C)(iii) of the Act, we have applied a budget neutrality factor to ensure that the overall payment impact of the DRG changes is budget neutral. This budget neutrality factor of 0.992493 is applied to payments in Column 5.

The DRG changes we are proposing in this proposed rule would result in higher payments to urban hospitals (0.6 percent) and somewhat lower payments to rural hospitals (-0.1). The changes also would result in higher payments to larger hospitals than to smaller hospitals. This impact is consistent for both urban and rural bed size groups.

This distributional impact likely results from the changes we are proposing to major diagnostic category (MDC) 5 ''Diseases and Disorders of the Circulatory System.'' As described in section II., we are proposing to remove cardiac defribrillator cases from DRGs 104 and 105, and create two new DRGs for these cases. In addition, we are proposing to revise the basis of the DRG assignment for cases involving percutaneous transluminal coronary angioplasty based on whether the patient experienced an acute myocardial infarction. Because MDC 5 is a high volume category, refining the categorizations of these cases has a noticeable impact.

C. Impact of Updating the Wage Data and the Proposed Changes to the Wage Index Calculation (Columns 2, 3 & 4)

Section 1886(d)(3)(E) of the Act requires that, beginning October 1, 1993, we annually update the wage data used to calculate the wage index. In accordance with this requirement, the proposed wage index for FY 2002 is based on data submitted for hospital cost reporting periods beginning on or after October 1, 1997 and before October 1, 1998. As with column 1, the impact of the new data on hospital payments is isolated in column 2 by holding the other payment parameters constant in the two simulations. That is, column 2 shows the percentage changes in payments when going from a model using the FY 2001 wage index (based on FY 1997 wage data before geographic reclassifications to a model using the FY 2002 pre-reclassification wage index based on FY 1998 wage data).

The wage data collected on the FY 1998 cost reports are similar to the data used in the calculation of the FY 2001 wage index. For a thorough discussion of the data used to calculate the wage index, see section III.B of this proposed rule.

The results indicate that the new wage data are estimated to provide a 0.2 percent increase for hospital payments overall (prior to applying the budget neutrality factor, see column 5). Rural hospitals appear to experience the greatest benefit from the update to the 1998 wage data, with an increase of 0.5 percent. Rural hospitals in Nevada, Connecticut and Arizona experience wage index increases of more than 5 percent. Rural hospitals in Puerto Rico experience a 3.9 percent increase.

Urban hospitals as a group are not significantly affected by the updated wage data. While large urban hospitals appear to experience a 0.1 percent decline, estimated payments to urban hospitals overall showed an increase of 0.2 percent. Payments in other urban areas increase by 0.6 percent. Among urban census divisions, the New England division experiences a 2.2 percent increase, Middle Atlantic a 1.2 percent decrease, East South Central a 1.1 percent increase, and Puerto Rico a 1.3 percent increase.

Columns 3 and 4, respectively, show that the proposed change to the overhead calculation and the proposal to include contract labor costs in the wage index discussed in detail in Section III.C. of this proposed rule both appear to have negligible impacts on hospital payments overall. Urban hospitals as a group are not effected by these proposals as there is a 0.0 percent impact to their payments from each proposed change. Rural hospitals, however, do appear to benefit slightly from these changes, as evidenced by the estimated 0.1 percent increase in payments to this group.

We note that the wage data used for the proposed wage index are based upon the data available as of February 22, 2001 and, therefore, do not reflect revision requests received and processed by the fiscal intermediaries after that date. To the extent these requests are granted by hospitals' fiscal intermediaries, these revisions will be reflected in the final rule. In addition, we continue to verify the accuracy of the data for hospitals with extraordinary changes in their data from the prior year.

The following chart compares the shifts in wage index values for labor market areas for FY 2001 relative to FY 2002. This chart demonstrates the impact of the proposed changes for the FY 2002 wage index relative to the FY 2001 wage index. The majority of labor market areas (318) experience less than a 5-percent change. A total of 36 labor market areas experience an increase of more than 5 percent with 4 having an increase greater than 10 percent. A total of 13 areas experience decreases of more than 5-percent. Of those, 4 decline by 10 percent or more.

Percentage change in area wage index values	Number of labor market areas	
	FY 2001	FY 2002
Increase more than 10 percent	1	4
Increase more than 5 percent and less than 10 percent	20	36
Increase or decrease less than 5 percent	339	318
Decrease more than 5 percent and less than 10 percent	14	13
Decrease more than 10 percent	1	4

Among urban hospitals, 163 would experience an increase of between 5 and 10 percent and 16 more than 10 percent. A total of 33 rural hospitals have increases greater than 5 percent, but none greater than 10 percent. On the negative side, 121 urban hospitals have decreases in their wage index values of at least 5 percent but less than 10 percent. Five urban hospitals have decreases in their wage index values greater than 10 percent. There are no rural hospitals with decreases in their wage index values greater than 5 percent or with increases of more than 10 percent. The following chart shows the projected impact for urban and rural hospitals.

Percentage change in area wage index values	Number of hospitals	
	Urban	Rural
Increase more than 10 percent	16	0
Increase more than 5 percent and less than 10 percent	101	15
Increase or decrease less than 5 percent	2,395	2,135
Decrease more than 5 percent and less than 10 percent	121	0
Decrease more than 10 percent	5	0

D. Combined Impact of DRG and Wage Index Changes—Including Budget Neutrality Adjustment (Column 5)

The impact of DRG reclassifications and recalibration on aggregate payments is required by section 1886(d)(4)(C)(iii) of the Act to be budget neutral. In addition, section 1886(d)(3)(E) of the Act specifies that any updates or adjustments to the wage index are to be budget neutral. As noted in the Addendum to this proposed rule, we compared simulated aggregate payments using the FY 2001 DRG relative weights and wage index to simulated aggregate payments using the proposed FY 2002 DRG relative weights and blended wage index. Based on this comparison, we computed a wage and recalibration budget neutrality factor of 0.992493. In Table I, the combined overall impacts of the effects of both the DRG reclassifications and recalibration and the updated wage index are shown in column 5. The 0.0 percent impact for all hospitals demonstrates that these changes, in combination with the budget neutrality factor, are budget neutral.

For the most part, the changes in this column are the sum of the changes in columns 1, 2, 3 and 4, minus approximately 0.7 percent attributable to the budget neutrality factor. There may be some variation of plus or minus 0.1 percent due to rounding.

E. Impact of MGCRB Reclassifications (Columns 6 & 7)

Our impact analysis to this point has assumed hospitals are paid on the basis of their actual geographic location (with the exception of ongoing policies that provide that certain hospitals receive payments on bases other than where they are geographically located, such as hospitals in rural counties that are deemed urban under section 1886(d)(8)(B) of the Act). The changes in column 5 reflect the per case payment impact of moving from this baseline to a simulation incorporating the MGCRB decisions for FY 2002. The changes in column 6 add in the post-reclassified wage index values resulting from the proposed change to include the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located. As noted below, these decisions affect hospitals' standardized amount and wage index area assignments.

By February 28 of each year, the MGCRB makes reclassification determinations that will be effective for the next fiscal year, which begins on October 1. The MGCRB may approve a hospital's reclassification request for the purpose of using the other area's standardized amount, wage index value, or both.

The proposed FY 2002 wage index values incorporate all of the MGCRB's reclassification decisions for FY 2002. The wage index values also reflect any decisions made by the HCFA Administrator through the appeals and review process for MGCRB decisions as of February 28, 2001. Additional changes that result from the Administrator's review of MGCRB decisions or a request by a hospital to withdraw its application will be reflected in the final rule for FY 2002.

The overall effect of geographic reclassification is required by section 1886(d)(8)(D) of the Act to be budget neutral. Therefore, we applied an adjustment of 0.991054 to ensure that the effects of reclassification are budget neutral. (See section II.A.4.b. of the Addendum to this proposed rule.) This results in a larger budget neutrality offset than the FY 2001 factor of 0.993187. This larger offset is accounted for by the extension of wage index reclassifications for 3 years as a result of section 304 of Public Law 106–554, and our proposed policy to hold-harmless the calculation of urban areas' wage indexes for reclassifications out of the area (see Column 7). We have identified 162 hospitals that were reclassified for FY 2001 but not FY 2002, that will nonetheless continue to be reclassified due to section 304 of Public Law 106–554.

As a group, rural hospitals benefit from geographic reclassification. Their payments rise 2.7 percent in Column 6. Payments to urban hospitals decline 0.7 percent. Hospitals in other urban areas see a decrease in payments of 0.5 percent, while large urban hospitals lose 0.8 percent. Among urban hospital groups (that is, bed size, census division, and special payment status), payments generally decline.

A positive impact is evident among most of the rural hospital groups. The smallest increase among the rural census divisions is 1.9 percent for Mountain and Puerto Rico regions. The largest increases are in rural West South Central and New England. These regions receive increases of 3.5 and 3.0 percent respectively.

Among all the hospitals that were reclassified for FY 2002, the MGCRB changes are estimated to provide a 4.5 percent increase in payments. Urban hospitals reclassified for FY 2002 are anticipated to receive an increase of 2.8 percent, while rural reclassified hospitals are expected to benefit from the MGCRB changes with a 5.6 percent increase in payments. Overall, among hospitals that were reclassified for purposes of the standardized amount only, a payment increase of 3.3 percent is expected, while those reclassified for purposes of the wage index only show a 1.9 percent increase in payments. Payments to urban and rural hospitals that did not reclassify are expected to decrease slightly due to the MGCRB changes, decreasing by 1.2 for urban hospitals and 0.6 for rural hospitals. Those hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act are expected to receive an increase in payments of 0.3 percent.

Column 7 shows the impacts of our proposed policy to include the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located. This change affects overall payments by 0.2 percent, partially accounting for the larger budget neutrality factor compared to FY 2001. The payment impacts are generally largest in urban hospital groups, with the largest impact, 0.6 percent, experienced by urban hospitals in the Middle Atlantic census division.

The foregoing analysis was based on MGCRB and HCFA Administrator decisions made by February 28, 2001. As previously noted, there may be changes to some MGCRB decisions through the appeals, review, and applicant withdrawal process. The outcome of these cases will be reflected in the analysis presented in the final rule.

F. All Changes (Column 8)

Column 8 compares our estimate of payments per case, incorporating all changes reflected in this proposed rule for FY 2002 (including statutory changes), to our estimate of payments per case in FY 2001. It includes the effects of the 2.55 percent update to the standardized amounts and the hospital-specific rates for MDHs and SCHs. It also reflects the 0.8 percentage point difference between the projected outlier payments in FY 2001 (5.1 percent of total DRG payments) and the current estimate of the percentage of actual outlier payments in FY 2001 (5.9 percent), as described in the introduction to this Appendix and the Addendum to this proposed rule.

We also note that section 211 of Public Law 106–554 changed the criteria for hospitals to qualify for DSH payment status. Since more hospitals are now eligible to receive DSH payments for the full FY 2002, as opposed to for just the second 6 months of FY 2001, DSH payments to providers in FY 2002 would increase and this change is also captured in column 8.

Section 213 of Public Law 106–554 provided that all SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during 1996. For FY 2002, eligible SCHs that rebase receive a hospital-specific rate comprised of 50 percent of the higher of their FY 1982 or FY 1987 hospital-specific rate or their Federal rate, and 50 percent of their 1996 hospital-specific rate. The impact of this provision is modeled in column 8 as well.

There might also be interactive effects among the various factors comprising the payment system that we are not able to isolate. For these reasons, the values in column 7 may not equal the sum of the changes in columns 5 and 6, plus the other impacts that we are able to identify.

Hospitals in urban areas experience a 1.7 percent increase in payments per case compared to FY 2001. The 0.7 percent

negative impact due to reclassification is offset by a similar negative impact for FY 2001 of 0.4 percent (65 FR 47196). Hospitals in rural areas, meanwhile, experience a 3.2 percent payment increase. This is primarily due to the change in the DSH threshold to 15 percent for all hospitals enacted by section 211 of Public Law 106–554 and effective for discharges on or after April 1, 2001, and the positive effect of the reclassification changes (2.7 percent increase, plus an additional 0.1 percent increase from the proposal to include the wage data for a reclassified hospital in both the area to which it is reclassified and the area where the hospital is physically located).

The impact of lowering the DSH threshold is demonstrated in Column 8, although we would note that the estimated FY 2001 payments do reflect 6 months of payments to hospitals affected by this change. The impacts are seen in the rows displaying urban hospitals with fewer than 100 beds receiving DSH (3.3 percent increase), and all rural DSH categories.

Among urban census divisions, payments increased between 0.2 and 3.0 percent between FY 2001 and FY 2002. The rural census division experiencing the smallest increase in payments was the Mid-Atlantic region (2.2 percent). The largest increases by rural hospitals is in Puerto Rico, where payments appear to increase by 8.4 percent and West South Central, where payments appear to increase by 4.2 percent. Rural New England and South Atlantic regions also benefited with 3.7 and 3.6 percent respectively.

Among special categories of rural hospitals, those hospitals receiving payment under the hospital-specific methodology (SCHs, MDHs, and SCH/RRCs) experience payment increases of 3.1 percent, 3.7 percent, and 3.2 percent, respectively. This outcome is primarily related to the fact that, for hospitals receiving payments under the hospital-specific methodology, there are no outlier payments. Therefore, these hospitals do not experience negative payment impacts from the decline in outlier payments from FY 2001 to FY 2002 (from 5.9 percent of total DRG plus outlier payments to 5.1 percent) as do hospitals paid based on the national standardized amounts.

Among hospitals that were reclassified for FY 2002, hospitals overall are estimated to receive a 2.9 percent increase in payments. Urban hospitals reclassified for FY 2002 are anticipated to receive an increase of 2.0 percent, while rural reclassified hospitals are expected to benefit from reclassification with a 3.6 percent increase in payments. Overall, among hospitals reclassified for purposes of the standardized amount, only a payment increase of 4.0 percent is expected, while those hospitals reclassified for purposes of the wage index only show an expected 2.5 percent increase in payments. Those hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act are expected to receive an increase in payments of 3.9 percent.

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2001 OPERATING PROSPECTIVE PAYMENT SYSTEM

[Payments per case]

	Number of hosps. (1)	Average FY 2001 payment per case [1] (2)	Average FY 2001 payment per case [1] (3)	All FY 2001 changes (4)
By Geographic Location:				
All hospitals	4,795	6,969	7,100	1.9
Urban hospitals	2,721	7,548	7,674	1.7
Large urban areas (populations over 1 million)	1,563	8,087	8,207	1.5
Other urban areas (populations of 1 million of fewer)	1,158	6,854	6,989	2.0
Rural hospitals	2,074	4,705	4,856	3.2
Bed Size (Urban):				
0–99 beds	712	5,114	5,220	2.1
100–199 beds	943	6,294	6,397	1.6
200–299 beds	530	7,192	7,320	1.8
300–499 beds	391	8,127	8,261	1.6
500 or more beds	145	9,946	10,099	1.5
Bed Size (Rural):				
0–49 beds	1,209	3,922	4,041	3.0
50–99 beds	520	4,410	4,554	3.3
100–149 beds	204	4,780	4,922	3.0
150–199 beds	75	5,291	5,470	3.4
200 or more beds	66	5,961	6,173	3.6
Urban by Region:				
New England	139	8,077	8,214	1.7
Middle Atlantic	417	8,561	8,579	0.2
South Atlantic	395	7,183	7,386	2.8
East North Central	462	7,210	7,323	1.6
East South Central	160	6,771	6,973	3.0
West North Central	189	7,287	7,430	2.0
West South Central	342	7,039	7,087	0.7
Mountain	137	7,282	7,454	2.4
Pacific	434	8,840	9,037	2.2
Puerto Rico	46	3,235	3,319	2.6
Rural by Region:				
New England	49	5,615	5,821	3.7
Middle Atlantic	74	5,052	5,165	2.2
South Atlantic	267	4,871	5,046	3.6
East North Central	273	4,743	4,875	2.8
East South Central	263	4,398	4,556	3.6
West North Central	479	4,506	4,620	2.5
West South Central	331	4,177	4,351	4.2
Mountain	194	5,020	5,166	2.9
Pacific	139	5,762	5,920	2.7
Puerto Rico	5	2,529	2,742	8.4
By Payment Classification:				
Urban hospitals	2,766	7,526	7,652	1.7

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2001 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Payments per case]

	Number of hosps. (1)	Average FY 2001 payment per case [1] (2)	Average FY 2001 payment per case [1] (3)	All FY 2001 changes (4)
Large urban areas (populations over 1 million)	1,643	8,002	8,121	1.5
Other urban areas (populations of 1 million of fewer)	1,123	6,870	7,008	2.0
Rural areas	2,029	4,687	4,838	3.2
Teaching Status:				
Non-teaching	3,674	5,605	5,728	2.2
Fewer than 100 Residents	881	7,309	7,445	1.9
100 or more Residents	240	11,258	11,410	1.3
Urban DSH:				
Non-DSH	1,879	6,354	6,461	1.7
100 or more beds	1,378	8,129	8,267	1.7
Less than 100 beds	325	4,925	5,089	3.3
Rural DSH:				
Sole Community (SCH)	540	4,295	4,427	3.1
Referral Center (RRC)	157	5,521	5,723	3.7
Other Rural:				
100 or more beds	73	4,304	4,441	3.2
Less than 100 beds	443	3,928	4,095	4.3
Urban teaching and DSH:				
Both teaching and DSH	754	9,091	9,238	1.6
Teaching and no DSH	295	7,562	7,683	1.6
No teaching and DSH	949	6,298	6,424	2.0
No teaching and no DSH	768	5,932	6,022	1.5
Rural Hospital Types:				
Non special status hospitals	800	4,042	4,186	3.6
RRC	165	5,434	5,630	3.6
SCH	667	4,562	4,676	2.5
Medicare-dependent hospitals (MDH)	328	3,844	3,966	3.2
SCH and RRC	69	5,649	5,803	2.7
Type of Ownership:				
Voluntary	2,785	7,136	7,261	1.8
Proprietary	777	6,580	6,712	2.0
Government	1,187	6,486	6,651	2.5
Unknown	46	6,283	6,449	2.6
Medicare Utilization as a Percent of Inpatient Days:				
0–25	396	9,504	9,713	2.2
25–50	1,886	8,030	8,164	1.7
50–65	1,843	6,012	6,142	2.2
Over 65	592	5,393	5,497	1.9
Unknown	78	10,244	10,132	−1.1
Hospitals Reclassified by the Medicare Geographic Classification Review Board: FY 2002 Reclassifications:				
All Reclassified Hospitals	636	6,153	6,334	2.9
Standardized Amount Only	74	5,200	5,407	4.0
Wage Index Only	391	6,004	6,152	2.5
Both	58	6,818	6,816	0.0
All Nonreclassified Hospitals	4,246	7,105	7,236	1.9
All Urban Reclassified Hospitals	119	8,253	8,415	2.0
Urban Nonreclassified Hospitals	18	6,176	6,136	−0.6
Standardized Amount Only	81	8,946	9,141	2.2
Wage Index Only	20	6,193	6,346	2.5
Both	2,564	7,531	7,654	1.6
All Reclassified Rural Hospitals	517	5,277	5,466	3.6
Standardized Amount Only	19	4,658	4,750	2.0
Wage Index Only	475	5,283	5,472	3.6
Both	23	5,396	5,622	4.2
Rural Nonreclassified Hospitals	1,554	4,153	4,268	2.8
Other Reclassified Hospitals (Section 1886(D)(8)(B))	41	4,841	5,032	3.9

[1] These payment amounts per case do not reflect any estimates of annual case-mix increase.

Table II presents the projected impact of the proposed changes for FY 2002 for urban and rural hospitals and for the different categories of hospitals shown in Table I. It compares the estimated payments per case for FY 2001 with the average estimated per case payments for FY 2002, as calculated under our models. Thus, this table presents, in terms of the average dollar amounts paid per discharge, the combined effects of the changes presented in Table I. The percentage changes shown in the last column of Table II equal the percentage changes in average payments from column 8 of Table I.

VIII. Impact for Critical Access Hospitals (CAHs)

There are approximately 365 facilities that qualify as CAHs. These CAHs are paid based on reasonable costs for their services to inpatients and outpatients. We examined several parts of the proposed rule, as discussed in detail in section VI.B. of the preamble, for their potential impact on CAHs.

A. Exclusion of CAHs From Payment Window Requirements

In this proposed rule, we are proposing to clarify the policy that CAHs are not subject to the payment window provisions of section 1886(a)(3) of the Act. Existing regulations do not require that these provisions be applied to CAHs, and we are not aware of specific situations in which they are now being applied. Consequently, we do not expect any increase or decrease in Medicare spending based on this clarification.

B. Availability of CRNA Pass-Through for CAHs

Under existing § 412.113(c), CRNA pass-through payment is available only to hospitals that either qualified for the pass-through of costs of anesthesia services furnished in calendar year 1989, or employed or contracted with a qualified nonphysician anesthetist as of January 1, 1988, to perform anesthesia services. We are proposing that certain CAHs that meet the pass-through criteria would qualify for pass-through payments. Under the existing criterion, the only facilities that could qualify for the pass-through as CAHs are those that would have qualified for the pass-through if they had elected to continue participating in Medicare as hospitals rather than converting to CAH status. We do not expect any increase or decrease in Medicare spending based on the proposed change in the regulations.

C. Payment for Emergency Room On-Call Physicians

In accordance with the amendments made by section 204 of Public Law 106–544, we are proposing to recognize as allowable costs, amounts for reasonable compensation and related costs for emergency room physicians who are on call but who are not present on the premises of a CAH. We expect that at least some CAHs will elect to compensate emergency room physicians for being on call, and that as a result, Medicare spending for CAH services will increase. However, we do not have information to develop a reliable estimate of how many CAHs will make this election, or how much physician compensation costs they will incur for on call time.

D. Treatment of Ambulance Services Furnished by Certain CAHs

In accordance with the provisions of section 205 of Public Law 106–554, we are proposing to amend the existing CAH regulations to provide for payment to CAHs for the reasonable costs of ambulance services furnished by a CAH or an entity owned or operated by the CAH if certain statutory requirements are met. We expect that at least some CAHs or entities owned or operated by CAHs will be able to qualify for payment for their ambulance services. To the extent that CAHs or CAH owned or operated entities furnish these services under the conditions specified in the law, ambulance services will be paid for at higher rates than would otherwise apply. As a result, Medicare spending for ambulance services will increase. However, we do not have sufficient information or data to develop a reliable estimate of how many CAHs or entities will qualify or the dollar amount of ambulance service costs they will incur.

E. Qualified Practitioners for Preanesthesia and Postanesthesia Evaluations in CAHs

As discussed in section VI.B. of this proposed rule, in an effort to eliminate or minimize potential issues relating to beneficiary access to medical services in rural areas, we are proposing to allow CRNAs who administer the anesthesia to conduct the preanesthesia and postanesthesia evaluations in a CAH. As with any licensed independent health care provider, the proposed change would not permit CRNAs to practice beyond his or her licensed scope of practice.

We believe that this proposal would increase flexibility of providers in furnishing medical services in rural areas. However, we do not have information or data to develop a reliable estimate of how many CRNAs would be used to conduct preanesthesia and postanesthesia evaluations in CAHs or what the associated costs would be.

IX. Impact of Proposed Changes in the Capital Prospective Payment System

A. General Considerations

We now have cost report data for the 8th year of the capital prospective payment system (cost reports beginning in FY 1999) available through the December 2000 update of the HCRIS. We also have updated information on the projected aggregate amount of obligated capital approved by the fiscal intermediaries. However, our impact analysis of payment changes for capital-related costs is still limited by the lack of hospital-specific data on several items. These are the hospital's projected new capital costs for each year, its projected old capital costs for each year, and the actual amounts of obligated capital that will be put in use for patient care and recognized as Medicare old capital costs in each year. The lack of this information affects our impact analysis in the following ways:

- Major investment in hospital capital assets (for example, in building and major fixed equipment) occurs at irregular intervals. As a result, there can be significant variation in the growth rates of Medicare capital-related costs per case among hospitals. We do not have the necessary hospital-specific budget data to project the hospital capital growth rate for individual hospitals.
- Our policy of recognizing certain obligated capital as old capital makes it difficult to project future capital-related costs for individual hospitals. Under § 412.302(c), a hospital is required to notify its intermediary that it has obligated capital by the later of October 1, 1992, or 90 days after the beginning of the hospital's first cost reporting period under the capital prospective payment system. The intermediary must then notify the hospital of its determination whether the criteria for recognition of obligated capital have been met by the later of the end of the hospital's first cost reporting period subject to the capital prospective payment system or 9 months after the receipt of the hospital's notification. The amount that is recognized as old capital is limited to the lesser of the actual allowable costs when the asset is put in use for patient care or the estimated costs of the capital expenditure at the time it was obligated. We have substantial information regarding fiscal intermediary determinations of projected aggregate obligated capital amounts. However, we still do not know when these projects will actually be put into use for patient care, the actual amount that will be recognized as obligated capital when the project is put into use, or the Medicare share of the recognized costs. Therefore, we do not know actual obligated capital commitments for purposes of the FY 2002 capital cost projections. In Appendix B of this proposed rule, we discuss the assumptions and computations that we employ to generate the amount of obligated capital commitments for use in the FY 2002 capital cost projections.

In Table III of this section, we present the redistributive effects that are expected to occur between ''hold-harmless'' hospitals and ''fully prospective'' hospitals in FY 2002. In addition, we have integrated sufficient hospital-specific information into our actuarial model to project the impact of the proposed FY 2002 capital payment policies by the standard prospective payment system hospital groupings. While we now have actual information on the effects of the transition payment methodology and interim payments under the capital prospective payment system and cost report data for most hospitals, we still need to randomly generate numbers for the change in old capital costs, new capital costs for each year, and obligated amounts that will be put in use for patient care services and recognized as old capital each year. We continue to be unable to predict accurately FY 2002 capital costs for individual hospitals, but with the most recent data on hospitals' experience under the capital prospective payment system, there is adequate information to estimate the aggregate impact on most hospital groupings.

B. Projected Impact Based on the Proposed FY 2002 Actuarial Model

1. Assumptions

In this impact analysis, we model dynamically the impact of the capital prospective payment system from FY 2001 to FY 2002 using a capital cost model. The FY 2002 model, as described in Appendix B of this proposed rule, integrates actual data from individual hospitals with randomly generated capital cost amounts. We have capital cost data from cost reports beginning in FY 1989 through FY 1999 as reported on the December 2000 update of HCRIS, interim payment data for hospitals already receiving capital prospective payments through PRICER, and data reported by the intermediaries that include the hospital-

specific rate determinations that have been made through January 1, 2001 in the provider-specific file. We used these data to determine the proposed FY 2002 capital rates. However, we do not have individual hospital data on old capital changes, new capital formation, and actual obligated capital costs. We have data on costs for capital in use in FY 1999, and we age that capital by a formula described in Appendix B. Therefore, we need to randomly generate only new capital acquisitions for any year after FY 1999. All Federal rate payment parameters are assigned to the applicable hospital. We will continue to pay regular exceptions during cost reporting periods beginning before October 1, 2001 but ending in FY 2002. However, in FY 2003 and later, payments will no longer be made under the regular exceptions provision, hence, we will no longer require the actuarial model described in Appendix B of this proposed rule.

For purposes of this impact analysis, the proposed FY 2002 actuarial model includes the following assumptions:

- Medicare inpatient capital costs per discharge will change at the following rates during these periods:

AVERAGE PERCENTAGE CHANGE IN CAPITAL COSTS PER DISCHARGE

Fiscal year	Percentage change
2000	1.39
2001	1.37
2002	2.58

- We estimate that the Medicare case-mix index will increase by 0.0 percent in FY 2001 and will increase by 1.0 percent in FY 2002.
- The Federal capital rate and the hospital-specific rate were updated beginning in FY 1996 by an analytical framework that considers changes in the prices associated with capital-related costs and adjustments to account for forecast error, changes in the case-mix index, allowable changes in intensity, and other factors. The proposed FY 2002 update is 1.1 percent (see section IV. of the Addendum to this proposed rule).

2. Results

We have used the actuarial model to estimate the change in payment for capital-related costs from FY 2001 to FY 2002. Table III shows the effect of the capital prospective payment system on low capital cost hospitals and high capital cost hospitals. We consider a hospital to be a low capital cost hospital if, based on a comparison of its initial hospital-specific rate and the applicable Federal rate, it will be paid under the fully prospective payment methodology. A high capital cost hospital is a hospital that, based on its initial hospital-specific rate and the applicable Federal rate, will be paid under the hold-harmless payment methodology. We are no longer displaying a column for the hospital-specific payments in Table III since the FY 2001 transition blend percentage for fully prospective hospitals is 100 percent of the Federal rate and zero percent of the hospital-specific rate, and all hospitals (except those defined as ''new'' under § 412.300) are paid based on 100 percent of the Federal rate for FY 2002. Based on our actuarial model, the breakdown of hospitals is as follows:

CAPITAL TRANSITION PAYMENT METHODOLOGY FOR FY 2002

Type of hospital	Percent of hospitals	Percent of discharges	Percent of capital costs	Percent of capital payments
Low Cost Hospital	66	62	57	61
High Cost Hospital	34	38	43	39

A low capital cost hospital may request to have its hospital-specific rate redetermined based on old capital costs in the current year, through the later of the hospital's cost reporting period beginning in FY 1994 or the first cost reporting period beginning after obligated capital comes into use (within the limits established in § 412.302(c) for putting obligated capital into use for patient care). If the redetermined hospital-specific rate is greater than the adjusted Federal rate, these hospitals will be paid under the hold-harmless payment methodology. Regardless of whether the hospital became a hold-harmless payment hospital as a result of a redetermination, we continue to show these hospitals as low capital cost hospitals in Table III.

Assuming no behavioral changes in capital expenditures, Table III displays the percentage change in payments from FY 2001 to FY 2002 using the above described actuarial model. With the proposed Federal rate, we estimate aggregate Medicare capital payments will increase by 3.80 percent in FY 2002. This increase is somewhat lower than last year's (5.48 percent) due in part to the fact that because the transition period ends after FY 2001, there is no longer an increase in the Federal blend percentage, which increased from 90 to 100 percent from FY 2000 to FY 2001, for fully prospective hospitals.

TABLE III.—IMPACT OF PROPOSED CHANGES FOR FY 2002 ON PAYMENTS PER DISCHARGE

	Number of hospitals	Discharges	Adjusted Federal payment	Average Federal percent	Hold harmless payment	Exceptions payment	Total payment	Percent change over FY 2001
FY 2001 Payments per Discharge								
Low Cost Hospitals	3,128	6,718,804	$626.20	99.70	$2.38	$5.69	$634.27	.....
Fully Prospective	2,945	6,231,764	627.54	100.00	.....	5.09	632.63	.....
100% Federal Rate	163	451,843	627.89	100.00	.....	7.75	635.64	.....
Hold Harmless	20	35,197	367.32	50.30	454.71	85.44	907.47	.....
High Cost Hospitals	1,577	4,110,246	636.96	97.69	19.34	10.64	666.93	.....
100% Federal Rate	1,386	3,744,619	648.86	100.00	.....	8.82	657.68	.....
Hold Harmless	191	365,627	515.12	75.29	217.38	29.23	761.73	.....
Total Hospitals	4,705	10,829,050	630.28	98.92	8.82	7.57	646.67	.....
FY 2002 Payments per Discharge								
Low Cost Hospitals	3,128	6,826,288	647.17	100.00	.....	3.19	650.36	2.54

TABLE III.—IMPACT OF PROPOSED CHANGES FOR FY 2002 ON PAYMENTS PER DISCHARGE—Continued

	Number of hospitals	Discharges	Adjusted Federal payment	Average Federal percent	Hold harmless payment	Exceptions payment	Total payment	Percent change over FY 2001
Fully Prospective	2,945	6,331,437	646.59	100.00		2.96	649.55	2.68
100% Federal Rate	183	494,852	654.56	100.00		6.11	660.67	3.94
High Cost Hospitals	1,577	4,176,324	671.77	100.00		5.72	677.49	1.58
100% Federal Rate	1,577	4,176,324	671.77	100.00		5.72	677.49	3.01
Total Hospitals	4,705	11,002,612	656.51	100.00		4.15	660.66	2.16

We project that low capital cost hospitals paid under the fully prospective payment methodology will experience an average increase in payments per case of 2.54 percent, and high capital cost hospitals will experience an average increase of 1.58 percent. These results are due to the fact that there is no longer an increase in the Federal blend percentage with the conclusion of the capital transition period in FY 2001 for fully prospective hospitals. Beginning FY 2002, all hospitals (except those defined as ''new'' under § 412.300) are paid based on 100 percent of the Federal rate for FY 2002.

For hospitals paid under the fully prospective payment methodology, the Federal rate payment percentage remains at 100 percent from FY 2001 (last year of the transition period) since they no longer receive payments based on the hospital-specific rate. The Federal rate payment percentage in FY 2001 for hospitals paid under the hold-harmless payment methodology is based on the hospital's ratio of new capital costs to total capital costs. The average Federal rate payment percentage for high cost hospitals receiving a hold-harmless payment for old capital in FY 2001 will increase from 75.29 percent to 100 percent since the transition period will have ended. All hold-harmless hospitals will be paid based on 100 percent of the Federal rate in FY 2002. We estimate that high cost hospitals (paid based on 100 percent of the Federal rate) will receive a decrease in exceptions payments from $8.82 per discharge in FY 2001 to $5.72 per discharge in FY 2002. This is primarily due to the expiration of the regular exceptions provision in FY 2002.

We are no longer presenting the average hospital-specific rate payment per discharge in Table III because the FY 2001 transition blend percentage for fully prospective hospitals is 100 percent of the Federal rate and zero percent of the hospital-specific rate, and all hospitals (except those defined as ''new'' under § 412.300) will be paid based on 100 percent of the Federal rate for FY 2002.

As stated previously, we will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001, but ending in FY 2002. However, in FY 2003 and later, regular exception payments will no longer be made under the regular exceptions provision, however, eligible hospitals could receive special exception payments under § 412.348(g).

We estimate that regular exceptions payments will decrease from 1.17 percent of total capital payments in FY 2001 to 0.63 percent of payments in FY 2002. These results are primarily due to the expiration of the regular exceptions after FY 2001 and the limited nature of the special exceptions policy in FY 2002. The projected distribution of the exception payments is shown in the chart below:

ESTIMATED FY 2002 EXCEPTIONS PAYMENTS

Type of hospital	Number of hospitals	Percent of exceptions payments
Low Capital Cost	122	48
High Capital Cost	116	52
Total	238	100

In the past we presented a cross-sectional summary of hospital groupings by the capital prospective payment transition period methodology generated by our actuarial model (Appendix B). We are no longer including such a comparison since all hospitals (except those defined as ''new'' under § 412.300) will be paid based on 100 percent of the Federal rate in FY 2002 with the conclusion of the 10-year capital transition period.

C. Cross-Sectional Analysis of Changes in Aggregate Payments

We used our FY 2002 actuarial model to estimate the potential impact of our proposed changes for FY 2002 on total capital payments per case, using a universe of 4,705 hospitals. The individual hospital payment parameters are taken from the best available data, including: The January 1, 2001 update to the provider-specific file, cost report data, and audit information supplied by intermediaries. In Table IV we present the results of the cross-sectional analysis using the results of our actuarial model and the aggregate impact of the proposed FY 2002 payment policies. As we explain in Appendix B of this proposed rule, we were not able to use 90 of the 4,795 hospitals in our database due to insufficient (missing or unusable) data. Consequently, the payment methodology distribution is based on 4,705 hospitals. These data should be fully representative of the payment methodologies that will be applicable to hospitals. Columns 3 and 4 show estimates of payments per case under our model for FY 2001 and FY 2002. Column 5 shows the total percentage change in payments from FY 2001 to FY 2002. Column 6 presents the percentage change in payments that can be attributed to Federal rate changes alone.

Federal rate changes represented in Column 6 include the 1.85 percent increase in the Federal rate, a 1.0 percent increase in case mix, changes in the adjustments to the Federal rate (for example, the effect of the new hospital wage index on the geographic adjustment factor), and reclassifications by the MGCRB. Column 5 includes the effects of the Federal rate changes represented in Column 6. Column 5 also reflects the effects of all other changes, including the change for all hold-harmless hospitals being paid based on 100 percent of the Federal rate, and changes in exception payments. The comparisons are provided by: (1) Geographic location, (2) region, and (3) payment classification.

The simulation results show that, on average, capital payments per case can be expected to increase 2.2 percent in FY 2002. The results show that the effect of the Federal rate change alone is to increase payments by 3.0 percent. In addition to the increase attributable to the Federal rate change, a 0.8 percent decrease is attributable to the effects of all other changes.

Our comparison by geographic location shows an overall increase in payments to hospitals in all areas. This comparison also shows that urban and rural hospitals will experience slightly different rates of increase in capital payments per case (2.3 percent and 1.2 percent, respectively). This difference is due to the lower rate of decrease for urban hospitals relative to rural hospitals (0.7 percent and 1.7 percent, respectively) from the effect of all other changes. Urban hospitals will gain approximately the same as rural hospitals (3.0 percent versus 2.9 percent, respectively) from the effects of Federal rate changes alone.

Most regions are estimated to receive increases in total capital payments per case, partly due to the fact that payments to all hospitals (except those defined as ''new'' under § 412.300) will be based on 100 percent of the Federal rate in FY 2002. Changes by region vary from a minimum

maximum decrease of 0.6 percent (Mountain urban region) to a maximum increase of 3.0 percent (New England urban rural region).

By type of ownership, voluntary hospitals are projected to have the largest rate of increase of total payment changes (2.5 percent, a 3.0 percent increase due to the Federal rate changes, and a 0.5 percent decrease from the effects of all other changes). Similarly, payments to government hospitals will increase 2.2 percent (a 3.0 percent increase due to Federal rate changes, and a 0.8 percent decrease from the effects of all other changes), while payments to proprietary hospitals will increase 0.5 percent (a 2.9 percent increase due to Federal rate changes, and a 2.4 percent decrease from the effects of all other changes). This 2.4 percent decrease from all other changes is primarily due to the estimated decrease in exceptions payments and the change for all hold-harmless hospitals being paid based on 100 percent of the Federal rate.

Section 1886(d)(10) of the Act established the MGCRB. Hospitals may apply for reclassification for purposes of the standardized amount, wage index, or both and for purposes of DSH for FYs 1999 through 2001. Although the Federal capital rate is not affected, a hospital's geographic classification for purposes of the operating standardized amount does affect a hospital's capital payments as a result of the large urban adjustment factor and the disproportionate share adjustment for urban hospitals with 100 or more beds. Reclassification for wage index purposes also affects the geographic adjustment factor, since that factor is constructed from the hospital wage index.

To present the effects of the hospitals being reclassified for FY 2001 compared to the effects of reclassification for FY 2000, we show the average payment percentage increase for hospitals reclassified in each fiscal year and in total. For FY 2001 reclassifications, we indicate those hospitals reclassified for standardized amount purposes only, for wage index purposes only, and for both purposes. The reclassified groups are compared to all other nonreclassified hospitals. These categories are further identified by urban and rural designation.

Hospitals reclassified for FY 2001 as a whole are projected to experience a 2.0 percent increase in payments (a 3.0 percent increase attributable to Federal rate changes and a 1.0 percent decrease attributable to the effects of all other changes). Payments to nonreclassified hospitals will increase slightly more (2.2 percent) than reclassified hospitals (2.0 percent) overall. Payments to nonreclassified hospitals will increase the same as reclassified hospitals from the Federal rate changes (3.0 percent), and they will lose less from the effects of all other changes (0.8 percent compared to 1.0 percent, respectively).

TABLE IV.—COMPARISON OF TOTAL PAYMENTS PER CASE

[FY 2001 Payments Compared to FY 2002 Payments]

	Number of hospitals	Average FY 2001 payments/case	Average FY 2002 payments/case	All changes	Portion attributable to Federal rate change
By Geographic Location:					
All hospitals	4,705	647	661	2.2	3.0
Large urban areas (populations over 1 million)	1,519	749	766	2.3	3.0
Other urban areas (populations of 1 million or fewer)	1,125	635	650	2.4	3.0
Rural areas	2,061	439	444	1.2	2.9
Urban hospitals	2,644	699	716	2.3	3.0
0–99 beds	654	522	507	–2.8	2.8
100–199 beds	927	596	607	1.8	2.9
200–299 beds	528	667	684	2.6	3.0
300–499 beds	390	739	762	3.1	3.0
500 or more beds	145	902	925	2.6	2.9
Rural hospitals	2,061	439	444	1.2	2.9
0–49 beds	1,200	369	372	1.0	2.9
50–99 beds	516	412	416	1.0	2.9
100–149 beds	204	452	457	1.1	2.9
150–199 beds	75	485	495	2.2	2.9
200 or more beds	66	548	553	1.0	3.0
By Region:					
Urban by Region	2,644	699	716	2.3	3.0
New England	138	745	768	3.0	3.0
Middle Atlantic	407	782	800	2.4	2.9
South Atlantic	393	669	684	2.2	3.0
East North Central	448	672	690	2.7	3.0
East South Central	156	638	655	2.7	2.9
West North Central	181	688	708	2.9	3.0
West South Central	321	665	673	1.3	2.9
Mountain	127	702	698	–0.6	2.9
Pacific	427	787	808	2.7	3.0
Puerto Rico	46	295	304	3.1	3.1
Rural by Region	2,061	439	444	1.2	2.9
New England	49	522	534	2.3	3.0
Middle Atlantic	73	463	469	1.5	2.9
South Atlantic	267	457	458	0.1	2.9
East North Central	273	449	455	1.4	2.9
East South Central	260	410	415	1.2	2.9
West North Central	477	422	428	1.4	2.9
West South Central	325	390	398	2.1	2.9
Mountain	193	466	467	0.1	2.8
Pacific	139	520	530	2.0	3.0
By Payment Classification:					
All hospitals	4,705	647	661	2.2	3.0
Large urban areas (populations over 1 million)	1,599	742	759	2.3	3.0
Other urban areas (populations of 1 million or fewer)	1,090	636	651	2.4	3.0
Rural areas	2,016	437	442	1.2	2.9

TABLE IV.—COMPARISON OF TOTAL PAYMENTS PER CASE—Continued

[FY 2001 Payments Compared to FY 2002 Payments]

	Number of hospitals	Average FY 2001 payments/case	Average FY 2002 payments/case	All changes	Portion attributable to Federal rate change
Teaching Status:					
Non-teaching	3,586	533	540	1.3	2.9
Fewer than 100 Residents	879	675	695	2.9	3.0
100 or more Residents	240	999	1,026	2.7	2.9
Urban DSH:					
100 or more beds	1,374	734	752	2.4	3.0
Less than 100 beds	317	489	491	0.4	2.8
Rural DSH:					
Sole Community (SCH/EACH)	540	395	390	–1.3	2.8
Referral Center (RRC/EACH)	157	504	511	1.4	2.9
Other Rural:					
100 or more beds	73	409	419	2.4	2.9
Less than 100 beds	439	369	380	2.8	3.0
Urban teaching and DSH:					
Both teaching and DSH	753	814	836	2.7	3.0
Teaching and no DSH	294	717	740	3.3	3.0
No teaching and DSH	938	585	595	1.7	2.9
No teaching and no DSH	704	590	595	0.9	2.9
Rural Hospital Types:					
Non special status hospitals	788	384	394	2.8	3.0
RRC/EACH	165	504	517	2.6	3.0
SCH/EACH	667	423	417	–1.5	2.8
Medicare-dependent hospitals (MDH)	327	363	365	0.7	2.9
SCH, RRC and EACH	69	510	508	–0.4	2.8
Hospitals Reclassified by the Medicare Geographic Classification Review Board:					
Reclassification Status During FY01 and FY02:	482	564	576	2.1	3.0
Reclassified During FY02 Only	153	571	580	1.6	2.9
FY02 Reclassifications:					
All Reclassified Hospitals	635	566	577	2.0	3.0
All Nonreclassified Hospitals	4,157	659	674	2.2	3.0
All Urban Reclassified Hospitals	119	741	763	2.9	3.0
Urban Nonreclassified Hospitals	2,487	699	715	2.3	3.0
All Reclassified Rural Hospitals	516	492	499	1.4	2.9
Rural Nonreclassified Hospitals	1,542	388	392	0.9	2.9
Other Reclassified Hospitals (Section 1886(D)(8)(B)).	41	461	455	–1.3	2.9
Type of Ownership:					
Voluntary	2,769	660	677	2.5	3.0
Proprietary	755	639	642	0.5	2.9
Government	1,179	581	594	2.2	3.0
Medicare Utilization as a Percent of Inpatient Days:					
0–25	389	825	846	2.5	3.0
25–50	1,872	736	755	2.5	3.0
50–65	1,832	568	580	2.2	3.0
Over 65	585	522	519	–0.7	2.9

Appendix B: Technical Appendix on the Capital Cost Model and Required Adjustments

Under section 1886(g)(1)(A) of the Act, we set capital prospective payment rates for FY 1992 through FY 1995 so that aggregate prospective payments for capital costs were projected to be 10 percent lower than the amount that would have been payable on a reasonable cost basis for capital-related costs in that year. To implement this requirement, we developed the capital acquisition model to determine the budget neutrality adjustment factor. Even though the budget neutrality requirement expired effective with FY 1996, we must continue to determine the recalibration and geographic reclassification budget neutrality adjustment factor and the reduction in the Federal and hospital-specific rates for exceptions payments. To determine these factors, we must continue to project capital costs and payments.

We will continue to pay regular exceptions for cost reporting periods beginning before October 1, 2001 but ending in FY 2002. In FY 2003 and later, no payments will be made under the regular exceptions policy, hence we will not compute a budget neutrality factor for regular exceptions in FY 2003 and later. As described in section V.D. of the preamble of this proposed rule, the budget neutrality adjustment for special exceptions will be based on historical costs. Consequently, there will be no need to estimate capital costs with the capital acquisition model. We will not publish this appendix after the final rule for the FY 2002 capital rates.

We used the capital acquisition model from the start of prospective payments for capital costs through FY 1997. We now have 8 years of cost reports under the capital prospective payment system. For FY 1998, we developed a new capital cost model to replace the capital acquisition model. This revised model makes use of the data from these cost reports.

The following cost reports are used in the capital cost model for this proposed rule: the December 31, 2000 update of the cost reports for PPS–IX (cost reporting periods beginning in FY 1992), PPS–X (cost reporting periods beginning in FY 1993), PPS–XI (cost reporting periods beginning in FY 1994), PPS–XII (cost reporting periods beginning in FY 1995), PPS–XIII (cost reporting periods beginning in FY 1996), PPS–XIV (cost reporting periods beginning in FY 1997),

PPS–XV (cost reporting periods beginning in FY 1998), and PPS–XVI (cost reporting periods beginning in FY 1999). In addition, to model payments, we use the January 1, 2001 update of the provider-specific file, and the March 1995 update of the intermediary audit file.

Since hospitals under alternative payment system waivers (that is, hospitals in Maryland) are currently excluded from the capital prospective payment system, we excluded these hospitals from our model.

We developed FY 1992 through FY 2001 hospital-specific rates using the provider-specific file and the intermediary audit file. (We used the cumulative provider-specific file, which includes all updates to each hospital's records, and chose the latest record for each fiscal year.) We checked the consistency between the provider-specific file and the intermediary audit file. We ensured that increases in the hospital-specific rates were at least as large as the published updates (increases) for the hospital-specific rates each year. We were able to match hospitals to the files as shown in the following table:

Source	Number of hospitals
No match	4
Audit file only	90
Provider-specific file only	185
Provider-specific and audit file	4,516
Total	4,795

One hundred eighteen of the 4,795 hospitals had unusable or missing data, or had no cost reports available. For 52 of the 118 hospitals, we were unable to determine a hospital-specific rate from the available cost reports. However, there was adequate cost information to determine that these hospitals were paid under the hold-harmless methodology. Since the hospital-specific rate is not used to determine payments for hospitals paid under the hold-harmless methodology, there was sufficient cost report information available to include these 52 hospitals in the analysis. We were able to estimate hospital-specific amounts from the cost reports as shown in the following table.

Cost report	Number of hospitals
PPS–9	1
PPS–12	1
PPS–13	1
PPS–14	1
PPS–15	2
PPS–16	8
Total	14

Hence we were able to use 66 (52 plus 14) of the 118 hospitals. The remaining 52 of the 118 hospitals could not be used in the analysis because we were not able to estimate their hospital-specific amount. An additional 38 hospitals could not be used in the analysis because we could not determine their capital costs, either because we had no cost reports for them or because there was insufficient cost report data. Accordingly, we used 4,705 hospitals for the analysis. Ninety (52 plus 38) hospitals could not be used in the analysis because of insufficient (missing or unusable) information. These hospitals account for about 0.3 percent of admissions. Therefore, any effects from the elimination of their cost report data should be minimal.

We analyzed changes in capital-related costs (depreciation, interest, rent, leases, insurance, and taxes) reported in the cost reports. We found a wide variance among hospitals in the growth of these costs. For hospitals with more than 100 beds, the distribution and mean of these cost increases were different for large changes in bed-size (greater than ±20 percent). We also analyzed changes in the growth in old capital and new capital for cost reports that provided this information. For old capital, we limited the analysis to decreases in old capital. We did this since the opportunity for most hospitals to treat ''obligated'' capital put into service as old capital has expired. Old capital costs should decrease as assets become fully depreciated and as interest costs decrease as the loan is amortized.

The new capital cost model separates the hospitals into three mutually exclusive groups. Hold-harmless hospitals with data on old capital were placed in the first group. Of the remaining hospitals, those hospitals with fewer than 100 beds comprise the second group. The third group consists of all hospitals that did not fit into either of the first two groups. Each of these groups displayed unique patterns of growth in capital costs. We found that the gamma distribution is useful in explaining and describing the patterns of increase in capital costs. A gamma distribution is a statistical distribution that can be used to describe patterns of growth rates, with the greatest proportion of rates being at the low end. We use the gamma distribution to estimate individual hospital rates of increase as follows:

(1) For hold-harmless hospitals, old capital cost changes were fitted to a truncated gamma distribution, that is, a gamma distribution covering only the distribution of cost decreases. New capital costs changes were fitted to the entire gamma distribution, allowing for both decreases and increases.

(2) For hospitals with fewer than 100 beds (small), total capital cost changes were fitted to the gamma distribution, allowing for both decreases and increases.

(3) Other (large) hospitals were further separated into three groups:

- Bed-size decreases over 20 percent (decrease).
- Bed-size increases over 20 percent (increase).
- Other (no change).

Capital cost changes for large hospitals were fitted to gamma distributions for each bed-size change group, allowing for both decreases and increases in capital costs. We analyzed the probability distribution of increases and decreases in bed size for large hospitals. We found the probability somewhat dependent on the prior year change in bed size and factored this dependence into the analysis. Probabilities of bed-size change were determined. Separate sets of probability factors were calculated to reflect the dependence on prior year change in bed size (increase, decrease, and no change).

The gamma distributions were fitted to changes in aggregate capital costs for the entire hospital. We checked the relationship between aggregate costs and Medicare per discharge costs. For large hospitals, there was a small variance, but the variance was larger for small hospitals. Since costs are used only for the hold-harmless methodology and to determine exceptions, we decided to use the gamma distributions fitted to aggregate cost increases for estimating distributions of cost per discharge increases.

Capital costs per discharge calculated from the cost reports were increased by random numbers drawn from the gamma distribution to project costs in future years. Old and new capital were projected separately for hold-harmless hospitals. Aggregate capital per discharge costs were projected for all other hospitals. Because the distribution of increases in capital costs varies with changes in bed size for large hospitals, we first projected changes in bed size for large hospitals before drawing random numbers from the gamma distribution. Bed-size changes were drawn from the uniform distribution with the probabilities dependent on the previous year bed-size change. The gamma distribution has a shape parameter and a scaling parameter. (We used different parameters for each hospital group, and for old and new capital.)

We used discharge counts from the cost reports to calculate capital cost per discharge. To estimate total capital costs for FY 2000 (the MedPAR data year) and later, we use the number of discharges from the MedPAR data. Some hospitals had considerably more discharges in FY 2000 than in the years for which we calculated cost per discharge from the cost report data. Consequently, a hospital with few cost report discharges would have a high capital cost per discharge, since fixed costs would be allocated over only a few discharges. If discharges increase substantially, the cost per discharge would decrease because fixed costs would be allocated over more discharges. If the projection of capital cost per discharge is not adjusted for increases in discharges, the projection of exceptions would be overstated. We address this situation by recalculating the cost per discharge with the MedPAR discharges if the MedPAR discharges exceed the cost report discharges by more than 20 percent. We do not adjust for increases of less than 20 percent because we have not received all of the FY 2000 discharges, and we have removed some discharges from the analysis because they are statistical outliers. This adjustment reduces our estimate of exceptions payments, and consequently, the reduction to the Federal rate for exceptions is smaller. We will continue to monitor our modeling of exceptions payments and make adjustments as needed.

The average national capital cost per discharge generated by this model is the combined average of many randomly generated increases. This average must equal the projected average national capital cost per discharge, which we projected separately

(outside this model). We adjusted the shape parameter of the gamma distributions so that the modeled average capital cost per discharge matches our projected capital cost per discharge. The shape parameter for old capital was not adjusted since we are modeling the aging of ''existing'' assets. This model provides a distribution of capital costs among hospitals that is consistent with our aggregate capital projections.

Once each hospital's capital-related costs are generated, the model projects capital payments. We use the actual payment parameters (for example, the case-mix index and the geographic adjustment factor) that are applicable to the specific hospital.

To project capital payments, the model first assigns the applicable payment methodology (fully prospective or hold-harmless) to the hospital as determined from the provider-specific file and the cost reports. The model simulates Federal rate payments using the assigned payment parameters and hospital-specific estimated outlier payments. The case-mix index for a hospital is derived from the FY 2000 MedPAR file using the FY 2002 DRG relative weights included in section VI. of the Addendum to this proposed rule. The case-mix index is increased each year after FY 2000 based on analysis of past experiences in case-mix increases. Based on analysis of recent case-mix increases, we estimate that case-mix will increase 0.0 percent in FY 2001. We project that case-mix will increase 1.0 percent in FY 2002. (Since we are using FY 2000 cases for our analysis, the FY 2000 increase in case-mix has no effect on projected capital payments.)

Changes in geographic classification and revisions to the hospital wage data used to establish the hospital wage index affect the geographic adjustment factor. Changes in the DRG classification system and the relative weights affect the case-mix index.

Section 412.308(c)(4)(ii) requires that the estimated aggregate payments for the fiscal year, based on the Federal rate after any changes resulting from DRG reclassifications and recalibration and the geographic adjustment factor, equal the estimated aggregate payments based on the Federal rate that would have been made without such changes. For FY 2001, the budget neutrality adjustment factors were 0.99933 for the national rate and 1.00508 for the Puerto Rico rate. In determining these factors, we used the factors from the first half of FY 2001 (October 2000 through March 2001) published in the August 1, 2000 final rule since section 547 of Public Law 106–554 specifies that the special increases and adjustments in effect between April and October 2001 do not apply for discharges occurring after FY 2001 and should not be included in determining the payment rates in subsequent years.

Since we implemented a separate geographic adjustment factor for Puerto Rico, we applied separate budget neutrality adjustments for the national geographic adjustment factor and the Puerto Rico geographic adjustment factor. We applied the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. Separate adjustments were unnecessary for FY 1998 and earlier since the geographic adjustment factor for Puerto Rico was implemented in FY 1998.

To determine the factors for FY 2002, we first determined the portions of the Federal national and Puerto Rico rates that would be paid for each hospital in FY 2002 based on its applicable payment methodology. Using our model, we then compared, separately for the national rate and the Puerto Rico rate, estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2001 geographic adjustment factor to estimated aggregate Federal rate payments based on the FY 2001 relative weights and the FY 2002 geographic adjustment factor. In making the comparison, we held the FY 2002 Federal rate portion constant and set the other budget neutrality adjustment factor and the regular and special exceptions reduction factors to 1.00. To achieve budget neutrality for the changes in the national geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.99703 for FY 2002 to the previous cumulative FY 2001 adjustment of 0.99933, yielding a cumulative adjustment of 0.99637 through FY 2002. For the Puerto Rico geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.99943 for FY 2002 to the previous cumulative FY 2001 adjustment of 1.00508, yielding a cumulative adjustment of 1.00450 through FY 2002. We then compared estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2002 geographic adjustment factors to estimated aggregate Federal rate payments based on the FY 2002 DRG relative weights and the FY 2002 geographic adjustment factors. The incremental adjustment for DRG classifications and changes in relative weights would be 0.99428 nationally and for Puerto Rico. The cumulative adjustments for DRG classifications and changes in relative weights and for changes in the geographic adjustment factors through FY 2002 would be 0.99067 nationally and 0.99876 for Puerto Rico. The following table summarizes the adjustment factors for each fiscal year:

BUDGET NEUTRALITY ADJUSTMENT FOR DRG RECLASSIFICATIONS AND RECALIBRATION AND THE GEOGRAPHIC ADJUSTMENT FACTORS

Fiscal year	National				Puerto Rico			
	Incremental adjustment				Incremental adjustment			
	Geographic adjustment factor	DRG reclassifications and recalibration	Combined	Cumulative	Geographic adjustment factor	DRG reclassifications and recalibration	Combined	Cumulative
1992	.....	.....	.....	1.00000	.....	.....	.....	.....
1993	.....	.....	0.99800	0.99800	.....	.....	.....	.....
1994	.....	.....	1.00531	1.00330	.....	.....	.....	.....
1995	.....	.....	0.99980	1.00310	.....	.....	.....	.....
1996	.....	.....	0.99940	1.00250	.....	.....	.....	.....
1997	.....	.....	0.99873	1.00123	.....	.....	.....	.....
1998	.....	.....	0.99892	1.00015	.....	.....	.....	1.00000
1999	0.99944	1.00335	1.00279	1.00294	0.99898	1.00335	1.00233	1.00233
2000	0.99857	0.99991	0.99848	1.00142	0.99910	0.99991	0.99901	1.00134
2001[1]	0.99846	1.00019	0.99865	0.99933	1.00365	1.00009	1.00374	1.00508
2001[2]	[3]0.99771	[3]1.00009	[3]0.99780	0.99922	[3]1.00365	[3]1.00009	[3]1.00374	1.00508
2002	[4]0.99703	[4]0.99428	[4]0.99133	0.99067	[4]0.99943	[4]0.99428	[4]0.99371	0.99876

[1] Factors effective for the first half of FY 2001 (October 2000 through March 2001).
[2] Factors effective for the second half of FY 2001 (April 2001 through September 2001).
[3] Incremental factors are applied to FY 2000 cumulative factors.
[4] Incremental factors are applied to the cumulative factors for the first half of FY 2001.

The methodology used to determine the recalibration and geographic (DRG/GAF) budget neutrality adjustment factor is similar to that used in establishing budget neutrality adjustments under the prospective payment system for operating costs. One difference is that, under the operating prospective payment system, the budget neutrality adjustments for the effect of geographic reclassifications are determined separately from the effects of other changes in the hospital wage index and the DRG relative weights. Under the capital prospective payment system, there is a single DRG/GAF budget neutrality adjustment factor (the national rate and the Puerto Rico rate are determined separately) for changes in the geographic adjustment factor (including geographic reclassification) and the DRG relative weights. In addition, there is no adjustment for the effects that geographic reclassification has on the other payment parameters, such as the payments for serving low-income patients or the large urban add-on payments.

In addition to computing the DRG/GAF budget neutrality adjustment factor, we used the model to simulate total payments under the prospective payment system.

Additional payments under the exceptions process are accounted for through a reduction in the Federal and hospital-specific rates. For FY 2002 additional payments for the ''regular'' exceptions are made only for cost reporting periods that begin before October 1, 2001. The adjustment for ''special'' exceptions payments (see § 412.348(g)) is described in section V.D. of the preamble of this proposed rule. Therefore, we used the model to calculate the exceptions reduction factor. This exceptions reduction factor ensures that aggregate payments under the capital prospective payment system, including exceptions payments, are projected to equal the aggregate payments that would have been made under the capital prospective payment system without an exceptions process. In modeling exceptions for FY 2002, we calculated exceptions only for qualifying cost reporting periods. Since changes in the level of the payment rates change the level of payments under the exceptions process, the exceptions reduction factor must be determined through iteration.

In the August 30, 1991 final rule (56 FR 43517), we indicated that we would publish each year the estimated payment factors generated by the model to determine payments for the next 5 years. Since we will no longer use the model after the final notice for the FY 2002 rates, we propose to discontinue publishing this table after the final notice for the FY 2002 rates. The table below provides the actual factors for FYs 1992 through 2001, the proposed factors for FY 2002, and the estimated factors that would be applicable through FY 2006. We caution that these are estimates for FYs 2002 and later, and are subject to revisions resulting from continued methodological refinements, receipt of additional data, and changes in payment policy. We note that in making these projections, we have assumed that the cumulative national DRG/GAF budget neutrality adjustment factor will remain at 0.99067 (0.99876 for Puerto Rico) for FY 2002 and later because we do not have sufficient information to estimate the change that will occur in the factor for years after FY 2002.

The projections are as follows:

Fiscal year	Update factor	Exceptions reduction factor	Budget neutrality factor	DRG/GAF adjustment factor [1]	Outlier adjustment factor	Federal rate adjustment	Federal rate (after outlier reduction)
1992	N/A	0.9813	0.9602	.....	0.9497	.....	415.59
1993	6.07	.9756	.9162	.9980	.9496	.....	417.29
1994	3.04	.9485	.8947	1.0053	.9454	[2].9260	378.34
1995	3.44	.9734	.8432	.9998	.9414	.....	376.83
1996	1.20	.9849	N/A	.9994	.9536	[3].9972	461.96
1997	0.70	.9358	N/A	.9987	.9481	.....	438.92
1998	0.90	9659	N/A	.9989	.9382	[4].8222	371.51
1999	0.10	.9783	N/A	1.0028	.9392	.....	378.10
2000	0.30	.9730	N/A	.9985	.9402	.....	377.03
2001 [5]	0.90	.9785	N/A	.9979	.9409	.....	382.03
2002	1.10	[6].9925	N/A	0.9913	.9426	.....	389.09
2003	0.60	.9975	N/A	[7] 1.0000	[7].9426	[4] 1.0255	403.44
2004	0.90	.9975	N/A	1.0000	.9426	.....	407.07
2005	1.10	.9975	N/A	1.0000	.9426	.....	411.55
2006	1.10	.9975	N/A	1.0000	.9426	.....	416.07

[1] Note: The incremental change over the previous year.
[2] Note: OBRA 1993 adjustment.
[3] Note: Adjustment for change in the transfer policy.
[4] Note: Balanced Budget Act of 1997 adjustment.
[5] Note: Rates are for the first half of FY 2001 (October 1, 2000 through March 31, 2001).
[6] Note: Product of general exceptions factor (0.9937) and special exceptions factor (0.9988).
[7] Note: Future adjustments are, for purposes of this projection, assumed to remain at the same level.

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Appendix C—Report to Congress

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAY 2 2001

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Section 1886(e)(3) of the Social Security Act (the Act) requires me to report to Congress the initial estimate of the applicable percentage increase in hospital inpatient payment rates for fiscal year (FY) 2002 that I will recommend for hospitals subject to the Medicare prospective payment system (PPS) and for hospitals and units excluded from PPS. This submission constitutes the required report.

Current law mandates, and the President's FY 2002 budget includes, an update for PPS hospitals equal to the market basket minus 0.55 percentage points. The President's FY 2002 budget estimated the PPS market basket rate of increase for FY 2002 to be 3.6 percent. Based on this estimate, we recommend an update for hospitals in both large urban and other areas of 3.05 percent.

Sole community hospitals (SCHs) are the sole source of care in their area and are afforded special payment protection in order to maintain access to services for Medicare beneficiaries. Medicare-dependent, small rural hospitals (MDHs) are a major source of care for Medicare beneficiaries in their area and are afforded special payment protection in order to maintain access to services for beneficiaries. SCHs and MDHs are PPS hospitals. However, SCHs are paid the higher of a hospital-specific rate or the Federal PPS rate and MDHs are paid the Federal PPS rate, or, if their hospital-specific rate exceeds the Federal PPS rate, the Federal rate plus 50 percent of the difference between the hospital-specific rate and the Federal rate. We recommend an update of 3.05 percent to the hospital-specific rate.

Hospitals and distinct part hospital units excluded from PPS are paid based on their reasonable costs subject to a limit under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Current law mandates that the update for all hospitals and distinct part units excluded from PPS equals the rate of increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's costs in relation to its limit, or 0 if costs do not exceed two thirds of the limit. The President's FY 2002 budget incorporates an increase to the TEFRA limit using 3.6 percent for the excluded hospital market basket increase. Therefore, depending on the hospital's costs in relation to its limit, the update would be the market basket increase minus a percentage between 0 and 2.5 percentage points, or 0, resulting in an increase in the TEFRA limits of between 1.1 and 3.6 percent, or 0.

Page 2 – The Honorable Richard B. Cheney

My recommendation for the updates is based on cost projections used in the President's FY 2002 budget. A final recommendation on the appropriate percentage increases for FY 2002 will be made nearer the beginning of the new Federal fiscal year based on the most current market basket projection available at that time. The final recommendation will incorporate our analysis of the latest estimates of all relevant factors, including recommendations by the Medicare Payment Advisory Commission (MedPAC). Section 1886(d)(4)(C)(iv) of the Act also requires that I include in my report recommendations with respect to adjustments to the diagnosis-related group (DRG) weighting factors. At this time I do not anticipate recommending any across-the-board adjustment to the DRG weighting factors for FY 2002.

I am pleased to provide this recommendation to you. I am also sending a copy of this letter to the Speaker of the House of Representatives. Please feel free to call me if you have any concerns or questions.

Sincerely,

Tommy G. Thompson

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAY 2 2001

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

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Page 2 – The Honorable J. Dennis Hastert

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Sincerely,

Tommy G. Thompson

Appendix D: Recommendation of Update Factors for Operating Cost Rates of Payment for Inpatient Hospital Services

I. Background

Several provisions of the Act address the setting of update factors for inpatient services furnished in FY 2002 by hospitals subject to the prospective payment system and by hospitals or units excluded from the prospective payment system. Section 1886(b)(3)(B)(i)(XVII) of the Act, as amended by Section 301 of Public Law 106–554, sets the FY 2002 percentage increase in the operating cost standardized amounts equal to the rate of increase in the hospital market basket minus 0.55 percent for prospective payment hospitals in all areas. Section 1886(b)(3)(B)(iv) of the Act sets the FY 2002 percentage increase in the hospital-specific rates applicable to SCHs and MDHs equal to the rate set forth in section 1886(b)(3)(B)(i) of the Act, that is, the same update factor as all other hospitals subject to the prospective payment system, or the rate of increase in the market basket minus 0.55 percentage points.

Under section 1886(b)(3)(B)(ii) of the Act, the FY 2002 percentage increase in the rate-of-increase limits for hospitals and units excluded from the prospective payment system ranges from the percentage increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available, or 0 percentage point if costs do not exceed two-thirds of the limit.

In accordance with section 1886(d)(3)(A) of the Act, we are proposing to update the standardized amounts, the hospital-specific rates, and the rate-of-increase limits for hospitals and units excluded from the prospective payment system as provided in section 1886(b)(3)(B) of the Act. Based on the first quarter 2001 forecast of the FY 2002 market basket increase of 3.1 percent for hospitals and units subject to the prospective payment system, the proposed update to the standardized amounts is 2.55 percent (that is, the market basket rate of increase minus 0.55 percent percentage points) for hospitals in both large urban and other areas. The proposed update to the hospital-specific rate applicable to SCHs and MDHs is also 2.55 percent. The proposed update for hospitals and units excluded from the prospective payment system would range from the percentage increase in the excluded hospital market basket (currently estimated at 3.0 percent) minus a percentage between 0 and 2.5 percentage points, or 0 percentage points, resulting in an increase in the rate-of-increase limit between 0.5 and 3.0 percent, or 0 percent.

Section 1886(e)(4) of the Act requires that the Secretary, taking into consideration the recommendations of the Medicare Payment Advisory Commission (MedPAC), recommend update factors for each fiscal year that take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. Under section 1886(e)(5) of the Act, we are required to publish the update factors recommended under section 1886(e)(4) of the Act. Accordingly, this Appendix provides the recommendations of appropriate update factors and the analysis underlying our recommendations and our response to MedPAC's recommendations concerning the update factors.

In its March 1, 2001 report, MedPAC stated that the legislated update of market basket minus 0.55 percentage points would provide a reasonable level of payments to hospitals. MedPAC did not make a separate recommendation for the hospital-specific rate applicable to SCHs and MDHs. We discuss MedPAC's recommendations concerning the update factors and our responses to these recommendations in section III. below.

II. Secretary's Recommendations

Under section 1886(e)(4) of the Act, we are recommending that an appropriate update factor for the standardized amounts is 2.55 percentage points for hospitals located in large urban and other areas. We are also recommending an update of 2.55 percentage points to the hospital-specific rate for SCHs and MDHs. As MedPAC states in its March 2001 report, there are signs of substantial improvement in hospitals' financial performance in FY 2000 as a result of the enactment of Public Law 106–113 and Public Law 106–554. In conjunction with the various ''give-back'' provisions in Public Law 106–113 and Public Law 106–554 and the continuation of positive (MedPAC estimates 12 percent for FY 1999 (page 64)) Medicare

hospital inpatient margins, we believe these recommended update factors for FY 2002 would ensure that Medicare acts as a prudent purchaser and provide incentives to hospitals for increased efficiency, thereby contributing to the solvency of the Medicare Part A Trust Fund.

We recommend that hospitals excluded from the prospective payment system receive an update of between 0.5 and 3.0 percentage points, or 0 percentage points. The update for excluded hospitals and units is equal to the increase in the excluded hospital operating market basket less a percentage between 0 and 2.5 percentage points, or 0 percentage points, depending on the hospital's or unit's costs in relation to its rate-of-increase limit for the most recent cost reporting period for which information is available. The market basket rate of increase for excluded hospitals and units is currently forecast at 3.0 percent.

As required by section 1886(e)(4) of the Act, we have taken into consideration the recommendations of MedPAC in setting these recommended update factors. Our responses to the MedPAC recommendations concerning the update factors are discussed below.

III. MedPAC Recommendations for Updating the Prospective Payment System Operating Standardized Amounts

In its March 2001 Report to Congress, MedPAC recommended a combined operating and capital update for hospital inpatient prospective payment system payments for FY 2002. With the end of the transition to fully prospective capital payments ending with FY 2001, both operating and capital prospective system payments will be made using standard Federal rates adjusted by hospital specific payment variables. Currently, section 1886(b)(3)(B)(i)(XVII) of the Act sets forth the FY 2002 percentage increase in the prospective payment system operating cost standardized amounts. The prospective payment system capital update is set at the discretion of the Secretary under the framework outlined in § 412.308(c)(1).

MedPAC's FY 2001 combined operating and capital update framework uses a weighted average of HCFA's forecasts of the operating (prospective payment system input price index) and the capital input price index. This combined market basket was used to develop an estimate of the change in overall operating and capital prices. MedPAC calculated a combined market basket forecast by weighting the operating market basket forecast by 0.92 and the capital market basket forecast by 0.08, since operating costs are estimated to represent 92 percent of total hospital costs (capital costs are estimated to represent the remaining 8 percent of total hospital costs). MedPAC's combined market basket for FY 2002 is estimated to increase by 2.8 percent, based on HCFA's December 2000 forecasted operating market basket increase of 3.0 percent and HCFA's December 2000 forecasted capital market basket increase of 0.8 percent.

For FY 2002, MedPAC's update framework would support a combined operating and capital update for hospital inpatient prospective payment system payments of 1.5 percent to 3.0 percent (or between the increase in the combined operating and capital market basket minus 1.3 percentage points and the increase in the combined operating and capital market basket plus 0.2 percentage points). In its update recommendation, MedPAC studied factors affecting the adequacy of payments in FY 2001 and factors expected to affect hospital costs in FY 2002. MedPAC concluded, ''there is no compelling reason to change current law setting an operating update for fiscal year 2002 of 0.55 percent below the rate of increase in the operating market basket ''(page 73). MedPAC also notes that while the number of hospitals with negative inpatient hospital margins have increased in FY 1999 (from 33.7 percent in 1998 to 36.7 percent in 1999) (page 71), overall high inpatient Medicare margins generally offset hospital losses on other lines of Medicare services (page 68). MedPAC continues to project substantially improved hospital total margins for FY 2000 based on performance in the first half of the fiscal year (page 72).

Response: Our long-term goal is to develop a single update framework for operating and capital prospective payments. However, the operating system update has been determined by Congress through FY 2003 (as amended by section 301 of Public Law 106–554). In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to facilitate the eventual development of a unified framework.

We agree with MedPAC's recommendation that the current law update for FY 2002 of the market basket minus 0.55 percentage points is appropriate for the operating system update. The following analyses measure changes in hospital productivity, scientific and technological advances, practice pattern changes, changes in case-mix, the effect of reclassification on recalibration, and forecast error correction.

A. Productivity

Service level labor productivity is defined as the ratio of total service output to full-time equivalent employees (FTEs). While we recognize that productivity is a function of many variables (for example, labor, nonlabor material, and capital inputs), we use the portion of productivity attributed to direct labor since this update framework applies to operating payment. To recognize that we are apportioning the short-run output changes to the labor input and not considering the nonlabor inputs, we weight our productivity measure by the share of direct labor services in the market basket to determine the expected effect on cost per case.

Our recommendation for the service productivity component is based on historical trends in productivity and total output for both the hospital industry and the general economy, and projected levels of future hospital service output. MedPAC's predecessor, the Prospective Payment Assessment Commission (ProPAC), estimated cumulative service productivity growth to be 4.9 percent from 1985 through 1989, or 1.2 percent annually. At the same time, ProPAC estimated total output growth at 3.4 percent annually, implying a ratio of service productivity growth to output growth of 0.35.

Since it is not possible at this time to develop a productivity measure specific to Medicare patients, we examined productivity (output per hour) and output (gross domestic product) for the economy. Depending on the exact time period, annual changes in productivity range from 0.3 to 0.35 percent of the change in output (that is, a 1.0 percent increase in output would be correlated with a 0.3 to 0.35 percent change in output per hour).

Under our framework, the recommended update is based in part on expected productivity—that is, projected service output during the year, multiplied by the historical ratio of service productivity to total service output, multiplied by the share of direct labor in total operating inputs, as calculated in the hospital market basket. This method estimates an expected productivity improvement in the same proportion to expected total service growth that has occurred in the past and assumes that, at a minimum, growth in FTEs changes proportionally to the growth in total service output. Thus, the recommendation allows for unit productivity to be smaller than the historical averages in years that output growth is relatively low and larger in years that output growth is higher than the historical averages. Based on the above estimates from both the hospital industry and the economy, we have chosen to employ the range of ratios of productivity change to output change of 0.30 to 0.35.

The expected change in total hospital service output is the product of projected growth in total admissions (adjusted for outpatient usage), projected real case-mix growth, expected quality-enhancing intensity growth, and net of expected decline in intensity due to reduction of cost-ineffective practice. Case-mix growth and intensity numbers for Medicare are used as proxies for those of the total hospital, since case-mix increases (used in the intensity measure as well) are unavailable for non-Medicare patients. Thus, expected FY 2002 hospital output growth is simply the sum of the expected change in intensity (0.3 percent), projected admissions change (1.6 percent for FY 2002), and projected real case-mix growth (1.0 percent), or 2.9 percent. The share of direct labor services in the market basket (consisting of wages, salaries, and employee benefits) is 61.4 percent.

Multiplying the expected change in total hospital service output (2.9 percent) by the ratio of historical service productivity change to total service growth of 0.30 to 0.35 and by the direct labor share percentage 61.4, provides our productivity standard of -0.6 to -0.5 percent.

In past years, MedPAC made an adjustment for productivity improvement to reflect the level of improvement in the production of health care services, without affecting the quality of those services. Typically, MedPAC made a downward adjustment in its framework to reflect expected improvements in hospital productivity. In its FY 2002 combined update framework, MedPAC did not make an adjustment for productivity. Instead, MedPAC believes that the costs associated with scientific and technological advances should be financed partially

through improvements in hospital productivity. As a result, MedPAC offset its adjustment for scientific and technological advances by a fixed standard of expected productivity growth of 0.5 percent for FY 2002. Our productivity adjustment of −0.6 to −0.5 percent is consistent with the range of MedPAC's fixed standard of expected productivity growth of 0.5 percent for FY 2002.

B. Intensity

We base our intensity standard on the combined effect of three separate factors: changes in the use of quality enhancing services, changes in the use of services due to shifts in within-DRG severity, and changes in the use of services due to reductions of cost-ineffective practices. For FY 2002, we recommend an adjustment of 0.2 to 0.3 percent. The basis of this recommendation is discussed below.

We have no empirical evidence that accurately gauges the level of quality-enhancing technology changes. A study published in the Winter 1992 issue of the *Health Care Financing Review,* ''Contributions of case mix and intensity change to hospital cost increases'' (pages 151–163), suggests that one-third of the intensity change is attributable to high-cost technology. The balance was unexplained but the authors speculated that it is attributable to fixed costs in service delivery.

Typically, a specific new technology increases cost in some uses and decreases cost in other uses. Concurrently, health status is improved in some situations while in other situations it may be unaffected or even worsened using the same technology. It is difficult to separate out the relative significance of each of the cost-increasing effects for individual technologies.

Other things being equal, per-discharge fixed costs tend to fluctuate in inverse proportion to changes in volume. Fixed costs exist whether patients are treated or not. If volume is declining, per-discharge fixed costs will rise, but the reverse is true if volume is increasing.

Following methods developed by HCFA's Office of the Actuary for deriving hospital output estimates from total hospital charges, we have developed Medicare-specific intensity measures based on a 5-year average using FYs 1996 through 2000 MedPAR billing data. Case-mix constant intensity is calculated as the change in total Medicare charges per discharge adjusted for changes in the average charge per unit of service as measured by the Consumer Price Index (CPI) for hospital and related services and changes in real case-mix. Thus, in order to measure changes in intensity, one must measure changes in real case-mix.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. Without reliable estimates of the proportions of the overall annual intensity increases due, respectively, to ineffective practice patterns and to the combination of quality-enhancing new technologies and within-DRG complexity, we assume that one-half of the annual increase is due to each of these factors.

For FY 2002, we have developed a Medicare-specific intensity measure based on a 5-year average using FY 1996 through 2000 data. In determining case-mix constant intensity, we estimate that real case-mix increase was 1.0 to 1.4 percent each year. The estimate for those years is supported by past studies of case-mix change by the RAND Corporation. The most recent study was ''Has DRG Creep Crept Up? Decomposing the Case Mix Index Change Between 1987 and 1988'' by G. M. Carter, J. P. Newhouse, and D. A. Relles, R–4098–HCFA/ProPAC (1991). The study suggested that real case-mix change was not dependent on total change, but was usually a fairly steady 1.0 to 1.4 percent per year. Following that study, we consider up to 1.4 percent of observed case-mix change as real for FY 1996 through FY 2000.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. The average percentage change in charge per discharge was 4.7 percent and the average annual change in the CPI for hospital and related services was 4.2 percent. Dividing the change in charge per discharge by the quantity of the real case-mix index change and the CPI for hospital and related services yields an average annual change in intensity of −0.9 percent. Assuming the technology/fixed cost ratio still holds (.33), technology would account for a −0.3 percent annual decline while fixed costs would account for a −0.6 percent annual decline. The decline in fixed costs per discharge makes intuitive sense as volume, measured by total discharges, has increased during the period.

For FYs 1995 through 1999, observed case-mix index change ranged from a low of −0.7 percent to a high of 1.6 percent, with a 5-year average change of 0.2 percent. If we assume that the upper bound of real case-mix was 1.0 percent, we estimate that case-mix constant intensity increased by an average 0.3 percent during FYs 1996 through 2000, for a cumulative increase of 1.4 percent. If we assume that the upper bound of real case-mix increase was 1.4 percent, we estimate that case-mix constant intensity increased by an average 0.2 percent during FYs 1996 through 2000, for a cumulative increase of 1.2 percent. Thus, we are recommending an intensity adjustment for FY 2002 between 0.2 and 0.3 percent.

MedPAC does not make an adjustment for intensity per se, but its combined update recommendation for FY 2002 includes two categories that we consider to be comparable with our intensity recommendation. MedPAC is recommending a 0.0 to 0.5 update for scientific and technological advances to account for anticipated uses of emerging technologies that enhance the quality of hospital services, but increase costs of hospital care. MedPAC recognized an allowance for science and technological advances of 0.5 percent to 1.0 percent. It believes that the costs associated with scientific and technological advances should be financed at least in part through improvements in hospital productivity. Hence, MedPAC offsets its allowance for science and technology by 0.5 percent for productivity. In addition, MedPAC includes, when appropriate, an adjustment for one-time factors expected to affect costs in FY 2002 and the removal of the adjustment for FY 2002 one-time factors in its science and technology adjustment. MedPAC concluded that a one-time adjustment of 0.5 percent for the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulatory requirements should be reflected in the FY 2002 payment update. Additionally, since MedPAC believes that the costs associated with one-time factors should not be built permanently into the rates, it recommended that the FY 2002 payment rates be reduced by 0.5 percent to offset the increase it recommended in the FY 2000 update for the costs associated with year 2000 (Y2K) computer improvements. Thus, MedPAC's combined FY 2002 adjustment for science and technological advances is 0.0 percent to 0.5 percent.

MedPAC's recommendation also takes into account the trend of some acute care providers to shift care to a postacute care facility. While this can occur for many reasons and the shifting of costs may maintain or improve quality of care for Medicare beneficiaries, it leads to an inappropriate distribution of payments and reduces the resources available for acute care providers to pay for services to other Medicare beneficiaries. We agree with MedPAC that the site-of-care substitution effect is real and believe that it is factored into our intensity recommendation.

C. Change in Case-Mix

Our analysis takes into account projected changes in case-mix, adjusted for changes attributable to improved coding practices. For our FY 2002 update recommendation, we are projecting a 1.0 percent increase in the case-mix index. We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher-weighted DRGs, but do not reflect greater resource requirements. Unlike in past years, where we differentiated between ''real'' case-mix increase and increases attributable to changes in coding behavior, we do not believe changes in coding behavior will impact the overall case-mix in FY 2002. As such, for FY 2002, we estimate that real case-mix is equal to projected change in case-mix. Thus, we are recommending a 0.0 percent adjustment for case-mix.

MedPAC's analysis indicates that coding change has reduced case-mix index growth. In the past, MedPAC has recommended a negative adjustment when DRG coding changes has led to case-mix index growth (upcoding) and has recommended a positive adjustment when DRG coding changes have led to a decline in case-mix (downcoding). In light of evidence that coding had no significant effect on case-mix change, MedPAC recommended an adjustment of 0.0 percent for FY 2002.

MedPAC also makes an adjustment for within-DRG severity. In past years, MedPAC has included an adjustment for increased case complexity not captured by the DRG classification system. MedPAC recognizes

that as the DRG system matures, it should account for more of the variation in costs by DRG assignment, leaving less within-DRG variation in case complexity and costliness (page 76). Therefore, MedPAC recommended an adjustment of 0.0 percent for FY 2002.

D. Effect of FY 2000 DRG Reclassification and Recalibration

We estimate that DRG reclassification and recalibration for FY 2000 resulted in a 0.0 percent change in the case-mix index when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the GROUPER.

E. Forecast Error Correction

We make a forecast error correction if the actual market basket changes differ from the forecasted market basket by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of forecast error. The estimated market basket percentage increase used to update the FY 2000 payment rates was 2.9 percent. Our most recent data indicates the actual FY 2000 increase was 3.6 percent. The resulting forecast error in the FY 2000 market basket rate of increase is 0.7 percentage points. This forecast error is a result of prices for wages, benefits, and chemicals increasing more rapidly than expected. Market conditions enabled hospitals to be less restrictive with pay increases than initially projected. Prices for chemicals were underestimated due to the unanticipated surge in oil prices in FY 2000.

MedPAC also made a recommendation in its FY 2002 combined update framework to adjust for any error in the market basket forecasts used to set FY 2000 payment rates. It recommended a combined adjustment for FY 2000 forecast error correction of 0.7 percent. MedPAC determined this forecast error adjustment by weighting the difference between the actual and forecasted operating (92 percent) and capital (8 percent) market basket increases for FY 2000. The forecasted FY 2000 operating market basket was 2.9 percent and the actual FY 2000 operating market basket increase was 3.6 percent. The FY 2000 capital market basket was forecasted to increase by 0.6 percent and the actual market basket increase was 0.9 percent. This implies that MedPAC's combined operating and capital market basket was forecasted at 2.7 percent and the combined actual operating and capital market basket was 3.4 percent. Accordingly, MedPAC recommended a 0.7 percent forecast error correction for its FY 2002 combined update recommendation.

F. Medicare Policy Change

In developing its update recommendation for FY 2002, MedPAC includes an adjustment for Medicare policy changes affecting financial status in its section of factors affecting current level of payments. While MedPAC's update framework has not considered such costs in the past, MedPAC believes that it is appropriate to account for significant costs incurred as a result of new Medicare policy. For FY 2002, MedPAC believes that legislated updates will match cost growth and that the overall the net affects of legislative changes (from Public Law 105–33, Public Law 106–113, and Public Law 106–554) will be small. Thus, it did not recommend any additional allowance for these costs for FY 2002. Accordingly, MedPAC recommended a 0.0 percent adjustment for Medicare policy changes in its update framework for FY 2002.

COMPARISON OF FY 2002 UPDATE RECOMMENDATIONS

	HHS	MedPAC [1]
Market basket	MB	MB [1]
Policy Adjustment Factors:		
Productivity	−0.6 to −0.5	([2])
Site-of-Service Substitution	([3])	−2.0 to − 1.0.
Intensity	0.2 to 0.3	
Science & Technology		0.0 to 0.5.
Real Within DRG Change		([4])
One-Time Factors		0.0
Medicare Policy Changes		0.0
Subtotal	−0.4 to −0.2	−2.0 to −0.5
Case-Mix Adjustment Factors:		
Projected Case-Mix Change	1.0	
Real Across DRG Change	1.0	0.0
Subtotal	0.0	0.0
Effect of FY 2000 DRG Reclass/Recalibration	0.0	
Forecast Error Correction	0.7	0.7
Total Recommendation Update	MB + 0.3 to MB + 0.5	MB [1] −1.3 to MB [1] + 0.2.

[1] Used HCFA's December 2000 operating and capital market basket forecast in its combined update recommendation.
[2] Included in MedPAC's Science and Technology Adjustment.
[3] Included in HHS' Intensity Factor.
[4] Included in MedPAC's Case-Mix Adjustment.

While the above analysis would suggest an update between operating market basket plus 0.3 percentage points and the operating market basket plus 0.5 percentage points, consistent with current law, we are recommending an update of market basket increase minus 0.55 percentage points (or 2.55 percent). Just as MedPAC believes that market basket minus 0.55 percentage points will provide a reasonable level of payments for FY 2002, we believe that a 2.55 update factor for FY 2002 will appropriately reflect current trends in health care delivery, including the recent decreases in the use of hospital inpatient services and the corresponding increase in the use of hospital outpatient and postacute care services.

Also consistent with current law, we are recommending that the hospital-specific rates applicable to SCHs and MDHs be increased by the same update, 2.55 percentage points. As MedPAC states in its March 2001 report, there are signs of substantial improvement in hospital financial performance in FY 2000. In conjunction with the various ''give-back'' provisions in Public Law 106–113 and Public Law 106–554 and the continuation of positive (12 percent for FY 1999) Medicare hospital inpatient margins, we believe these recommended update factors for FY 2002 would ensure that Medicare acts as a prudent purchaser and provide incentives to hospitals for increased efficiency, thereby contributing to the solvency of the Medicare Part A Trust Fund.

[FR Doc. 01–11062 Filed 5–3–01; 8:45 am]
BILLING CODE 4120–01–P

Federal Register

Friday,
May 4, 2001

Part III

The President

Executive Order 13210—President's Commission To Strengthen Social Security

Federal Register
Vol. 66, No. 87
Friday, May 4, 2001

Presidential Documents

Title 3—

The President

Executive Order 13210 of May 2, 2001

President's Commission To Strengthen Social Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and to preserve Social Security for senior Americans while building wealth for younger Americans, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Commission to Strengthen Social Security (Commission).

Sec. 2. *Membership.* The Commission shall be composed of sixteen members appointed by the President, of which no more than eight shall be members of the same political party. The President shall also designate two members of the Commission to act as co-chairs. The two co-chairs shall not be members of the same political party.

Sec. 3. *Mission.* The mission of the Commission shall be to submit to the President bipartisan recommendations to modernize and restore fiscal soundness to the Social Security system according to the following principles:
(a) Modernization must not change Social Security benefits for retirees or near-retirees;

(b) The entire Social Security surplus must be dedicated to Social Security only;

(c) Social Security payroll taxes must not be increased;

(d) Government must not invest Social Security funds in the stock market;

(e) Modernization must preserve Social Security's disability and survivors components; and

(f) Modernization must include individually controlled, voluntary personal retirement accounts, which will augment the Social Security safety net.

Sec. 4. *Administration.* (a) The Social Security Administration shall, to the extent permitted by law, provide administrative support and funding for the Commission.

(b) Members of the Commission shall serve without any compensation for their work on the Commission. Members appointed from among private citizens of the United States, however, while engaged in the work of the Commission, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), to the extent funds are available.

(c) The Commission shall have a staff headed by an Executive Director, who shall be selected by the President. To the extent permitted by law, office space, analytical support, and additional staff support for the Commission shall be provided by executive branch departments and agencies as directed by the President.

(d) The Commission shall receive input from and provide briefings to the Congress, by procedures determined by the President in consultation with the congressional leadership and the Commission. Public hearings shall be held at the call of the co-chairs, in consultation with the President.

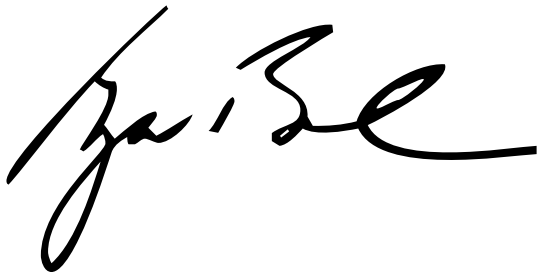
(e) The functions of the President under the Federal Advisory Committee Act, as amended, except for those in section 6 of that Act, that are applicable to the Commission, shall be performed by the Social Security Administration,

in accordance with the guidelines that have been issued by the Administrator of General Services.

Sec. 5. *Reports.* The Commission shall submit reports to the President as follows: (a) *Interim Report.* An interim report shall describe the challenges facing the Social Security system and the criteria by which the Commission will evaluate reform proposals. These criteria may include but are not limited to: solvency, sustainability, benefit adequacy, fair treatment across generations and demographic groups, total annual cost obligations, net impact on the Federal budget, impact upon national savings, impact on workforce participation, impact on employer-provided pension plans, rates of return, and protections against poverty.

(b) *Final Report.* The final report will set forth the Commission's recommendations, in accordance with its stated mission in section 3 of this order, regarding how to strengthen Social Security with personal accounts. The Commission shall submit its final report during the fall of 2001. The submission date shall be determined by the co-chairs in consultation with the President.

Sec. 6. *Termination.* The Commission shall terminate 30 days after submitting its final report.



THE WHITE HOUSE,
May 2, 2001.

[FR Doc. 01–11505
Filed 5–3–01; 10:58 am]
Billing code 3195–01–P

Federal Register

Friday,
May 4, 2001

Part IV

Department of Justice

28 CFR Part 25

National Instant Criminal Background Check System Regulation; Delay of Effective Date; Final Rule

DEPARTMENT OF JUSTICE

28 CFR Part 25

[AG Order No. 2425–2001; FBI 105F]

RIN 1110–AA02

National Instant Criminal Background Check System Regulation; Delay of Effective Date

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), the Department of Justice temporarily delayed for 60 days (66 FR 12854) the effective date of the final rule entitled ''National Instant Criminal Background Check System Regulation'' (66 FR 12854, March 1, 2001), originally published in the **Federal Register** on January 22, 2001 (66 FR 6470). This action temporarily postpones for an additional 60 days the effective date of that final rule. This temporary 60-day delay in effective date is necessary to give Department of Justice officials further opportunity to review the rule, with the goal of adopting a regulation that will resolve issues regarding audit requirements, privacy interests, and other considerations identified during the recent 60-day review period.

DATES: The effective date of the final rule amending 28 CFR Part 25 published in the **Federal Register** on January 22, 2001, at 66 FR 6470 is delayed for an additional 60 days, from May 4, 2001, until July 3, 2001. This action is effective immediately upon publication.

FOR FURTHER INFORMATION CONTACT: Fanny Haslebacher, Attorney-Advisor, Federal Bureau of Investigation, Module A–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, (304) 625–2000.

SUPPLEMENTARY INFORMATION: To the extent that 5 U.S.C. section 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Department's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register** is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). The new Department officials must have sufficient, limited time to review the rule and its administrative record thoroughly in order to determine whether the rule sufficiently addresses questions concerning the implementation of the audit requirements, important privacy interests, and other considerations identified during the recent 60-day review period. Accordingly, the Department finds that there is good cause for this limited delay of the effective date, without notice and comment, and that this action is in the public interest. Any additional delays will be ordered only after notice-and-comment rulemaking on the question of such delay.

Dated: May 3, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–11507 Filed 5–3–01; 10:59 am]

BILLING CODE 4410–01–M

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H.R. 132/P.L. 107–6

To designate the facility of the United States Postal Service located at 620 Jacaranda Street in Lanai City, Hawaii, as the ''Goro Hokama Post Office Building''. (Apr. 12, 2001; 115 Stat. 8)

H.R. 395/P.L. 107–7

To designate the facility of the United States Postal Service located at 2305 Minton Road in West Melbourne, Florida, as the ''Ronald W. Reagan Post Office of West Melbourne, Florida''. (Apr. 12, 2001; 115 Stat. 9)

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